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POLITICS: SCIENCE OR ART?

BY ALPHEUS THOMAS MASON
Princeton University

Anyone who considers the inability of present-day politicians, statesmen, and even economists to cope with the many human problems that the world has so recently and rudely thrust upon them, must see that knowledge of social relations has scarcely kept pace with that amazing expertness with which men build machines and control their functionings. Many reasons may account for the comparatively backward state of the social sciences. One explanation has been put in terms of method. The natural scientist, the chemist or physicist proceeds inductively and experimentally whereas the social scientist usually begins by making certain assumptions and then running riot in speculation. There is doubtless a measure of truth in this explanation, but certainly it does not cover the whole case.

Research in mechanical, chemical, and electrical science has itself added many arresting social and political problems to the difficulties of modern government. This was shown in a most startling manner a few months ago, when the Research and Planning Division of the NRA made its first report on the automobile industry. Even during years of depression this industry made remarkable progress in technical skill, engineering development, and facility in production. Five years ago, for example, it took 250 men to complete 100 motor blocks per day; in 1934 nineteen men could finish 250 motor blocks a day. A single new inspection machine eliminated ten to twenty inspectors. All this means progress when considered exclusively in technical terms; looked at from the human angle it presents a very dark picture. What becomes of the skilled technician thus displaced by the machine? Such technical progress

creates or increases the already basic and difficult problem of unemployment. The report also showed men prematurely old, due to the speed at which they worked; in many instances they had to be replaced at the age of forty, when, according to a recent best-seller, life really begins. These unfortunates are hurried into an artificial or accelerated old-age of which government, business and society must take account.

One of the chief difficulties that stands in the way of social research lies in the great divergence between the categories of social phenomena we are able to observe in different regions and at different periods of history. Some very great minds have devoted their efforts to the study of politics, but their conclusions have been of limited value chiefly because of the narrow range of fact and experience on which their observations were based. Plato formed his view of democracy from the facts of Athenian life as he saw them. Plato's disciple, Aristotle, did the same thing but handled his limited materials in a more precise and less imaginative way. So after him did Cicero. So, too, many years later did Machiavelli, Montesquieu, Burke, Tocqueville, and others. All these thinkers studied with unusual acuteness the political phenomena of their day and made their own particular observations on the basis of what they saw. If they reached different conclusions, which was usually the case, as to the nature of political relations and the principles by which such relations should be controlled, one reason may be that the facts examined were by no means identical.

The chemist or physicist deals with materials which are everywhere and at all times the same. Oxygen and sulphur behave the same way in Europe as in America whether in 1492 or 1935, but the phenomenon of an election in a South American country is by no means the same as in the state of New York or in Yugoslavia, even though the same word is used to describe the political process. The substance with which the chemist deals can be weighed and measured but the feelings and acts of man cannot. Experiments can be tried in physics over and over again until a conclusive result is reached, but there can never be a political experiment in the scientific sense simply because conditions cannot be exactly reproduced nor fully controlled. Therefore prediction in physics or chemistry may be and often is certain; in politics it is, at best, mere hit-or-miss, problematical. James Bryce after having spent most of his life studying the governments of the world was compelled to conclude that, "the only thing we know about the future of politics is that it will differ from the past."

If vagueness and doubt enshroud the subject matter of politics the reason is not that philosophers and statesmen have been more careless and lazy than scientists, but rather that political conclusions are so frequently pre-determined by the particular facts examined. There is perhaps an even stronger reason, and one which needs special emphasis—the peculiar nature of politics itself.

However widely and carefully the material be gathered, it is doubtful whether politics can ever be a science as botany, chemistry, or mathematics are sciences. The point has been often emphasized and explained but never quite so well as by Edmund Burke. A statesman as well as a philosopher, with scarcely an equal in his understanding of the complexity and ever-shifting combination of political facts, Burke observed:

"The lines of politics are not like the lines of mathematics. They are broad and deep as well as long. They admit of exceptions; they demand modifications. No lines can be laid down for civil or political wisdom. They are a matter incapable of exact definition." Disraeli put words not unlike these in the mouth of the cynical old statesman in his novel, *Contarini Fleming*: "Few ideas are correct ones, and what are correct no one can say; but with words we govern men."

There are reasons other than the nature of the subject itself that may account for this unscientific quality. Few subjects have suffered so much from prejudice, partisanship, fear of change, the greed for power and the habit of hasty inference and rash conclusion. Nearly every political thinker whose writings have stood the test of time wrote under the compelling and even heating influence of events of his own day. Rarely has political speculation been motivated by true scientific purpose. Thomas Hobbes wrote the *Leviathan* in 1651 in order to establish the claims of absolute government on grounds other than divine right; John Locke in 1690 produced the second treatise of civil government for the deliberate purpose of justifying the glorious revolution of 1688; in 1790 Edmund Burke wrote his *Reflections on the French Revolution* in an effort to stay the threat of revolutionary doctrine then gaining such headway because of the dramatic force with which Rousseau had voiced his doctrines of liberty, equality, and popular sovereignty. All these political thinkers, curiously enough, employ very much the same terminology—liberty, property, equality, sovereignty, rights, law—but seldom are these words intended to convey the same meanings.

What has been said doubtless raises in one's mind the question

whether the materials of politics, the thoughts of men, their habits, customs and institutions, are such as to be incapable of scientific treatment. Just because politics is not a science like mathematics or chemistry is no reason for concluding that no scientific deductions may be made from its study. There is in the phenomena of human society one constant, one element or factor which is practically always the same and therefore forms some scientific basis for politics. This is Human Nature itself. "The tendencies of human nature," James Bryce wrote in 1920, "are the permanent basis of study which gives to the subject called political science whatever scientific quality it may possess." Men have like passions and desires; they are stirred by like motives; they think along similar lines. Human nature is that basic and ever-present element in the endless flux of social and political phenomena which enables us to deduce certain general principles that hold good everywhere.

If this is true it becomes pertinent to consider those traits of human nature on which certain rules of political action can be based. What qualities are there stout enough to bear the weight of general conclusions? The most fundamental one is the individual and collective instinct for dominion over others. The means by which men seek such dominion is force; force of mind; force of body; force of wealth or property. The primary trait of man, according to this theory, is the *will to power*, and this *will to power* is an innate human quality. Thus a non-political society is incompatible with what we know of ourselves. Since every individual whether acting singly or in groups shows the same tendencies or traits, there is bound to be a clash; conflict ensues between individuals and groups of individuals. This struggle for power constitutes the very essence of politics as we see it in history. The 17th century political philosopher, Thomas Hobbes, had noted this underlying aspect of politics when he wrote: "Happiness itself is a perpetual and ceaseless desire for power that ceaseth only in death." Every person from childhood to death uses a force of mind with which to think, to know and to persuade; a force of body with which to act, to attract and constrain the bodies of others; finally, a force of wealth (money, lands, stocks, bonds, lucrative jobs) by means of which he may control others. There is considerable difference of opinion among writers as to which of these various forces is the most effective control over one's fellows.

John Stuart Mill placed great store on the power of opinion, belief, and persuasion. He stated this view very pointedly in his *Representative Government*: "One person with a belief is a social

power equal to ninety-nine who have only interest." Mill cites compelling examples to show how far mere physical and economic power is from being the whole of social power. The history of all peoples records strong illustrations of this. It was not by any change in the distribution of material interests, not by physical force, but by the spread of moral and rational conviction that negro slavery was destroyed. It was not battalions and armies that enabled the frail and shrunken Ghandi to win his way in India; it was belief in a principle which even Great Britain at last had to respect. That little "saint in politics" by merely sitting quietly and holding doggedly to a belief, sometimes with no food save a bit of parched corn and goat's milk, succeeded in arousing political consciousness and finally in dominating 350 million people when others with greater physical, economic, and intellectual power had failed to move them.

Alexander Hamilton and many other wise men have believed that economic power alone is basic in politics. Power over a man's pocketbook, Hamilton wrote in the *Federalist*, amounts to control over his will. Madison, too, although at odds with Hamilton on many points, agreed that "the most common and durable source of factions has been the various and unequal distribution of property." Some of the greatest names in the literature of politics, Aristotle, Machiavelli, Harrington, Burke, Marx, and others testify to the deep impress of economics on politics.

Physical force, violence and resort to arms, has in many periods of history, been recognized as basic in politics. Some have gone so far as to contend that force, superior physical power explains the origin of civil society itself.

Quite apart from the relative strength of these human factors in politics, it is undoubtedly true that every man and woman uses one and perhaps all of them to obtain dominion over others, to live more securely, to satisfy his or her desires—whether good or bad. The strip cartoons show that every day. And, interestingly enough, these tactics by which power is gained are in as common use among men who have won places in formal political government as among those seeking to oust them. There is no situation where a single one of these innate human qualities has been eliminated from the political struggle. The rule of a Mussolini, a Hitler, or a Roosevelt may appear well-established, but it is not difficult to find these men resorting to the power of wealth, the power of persuasion, as Mr. Roosevelt's broadcasts, the power of force, as the terrorist methods of Hitler and Stalin. And, of course, the-

underdog is hopefully using the same tactics to put himself on top. Politics, in short is a struggle for power among men who do not respect power. It results from the effort of each human being or group to induce, persuade, or compel other human beings to do his will, and conversely, not to be himself induced, persuaded, or compelled into doing theirs. It is always going on and can never be brought to any conclusion.

The political association known as the state is not the only grouping in which a few men control others. Government is not so exclusive and peculiar an institution as has been pictured. It is only one of a series of control systems such as the trade-union, the church, the social, industrial and economic groups. Each of these has its own internal machinery of control, constitution, by-laws, officers, and so on. There are any number of men, and women too, who are not on a borough council or in a legislative or judicial body, and yet they assume some form of group responsibility, and thus exercise what really are functions of government so far as their own particular group is concerned. They consult, deputize, administer and enforce the rules of their organization. Sometimes such authority may be exercised arbitrarily. Just the other day a rival labor union criticized President William Green for his alleged dictatorship in the councils of labor. Churchmen too have been severely criticized for their arbitrary dominance in the affairs of their associations. Each of these groups, whether trade-union, manufacturers' association, or church, seeks to make its influence felt; each tries to deflect the course of formal political government for the benefit of its own interests. Each is demonstrating that desire for power and dominion, which in Hobbes' words, "ceaseth only with death." The means employed are always the same: power of mind, persuasion and propaganda; power of body, physical force and violence as in racketeering; power of wealth, which may take the form of bribery or a fat contribution to the political campaign funds.

Political government does not always have dominion. Certain important groups deliberately avoid responsibility, do not try to elect their own political representatives. Our trade unionists, for example, have never formed a Labor party, but seek to gain their ends by "rewarding friends and punishing enemies" within the established parties. It results that political government may be in actual subservience to a power stronger than itself; so that by acquiescing and deferring to this or that interest, certain outside or private persons achieve real authority.

No one has probed more deeply into the subtleties of politics than the 16th century Florentine philosopher, Machiavelli. It was he who inspired Mussolini. But many other politicians have successfully followed his advice without being aware they were doing so. Machiavelli's advice to his imaginary prince is as frank as it is subtle. In telling the prince, once established, how best to maintain his power, Machiavelli warns him to take account of the conflict of classes out of which political power springs and to pit one against the other, leaning to the right or to the left as occasion demands. By this shifting of "affection" or preference or favor, the prince is told he can cause the passions and ambitions of each class to nullify those of the other, and so keep himself secure in power. Machiavelli's specific advice was as follows: "As cities are generally divided into guilds and classes, the prince should keep account of these bodies and occasionally be present at their assemblies, and should set an example of his affability and magnificence, preserving however always the majesty of his dignity".

This advice was given holders of high political office nearly 300 years ago but it is faithfully followed today by our own statesmen from the President down to the mayor of the smallest hamlet. Some may recall that General Hugh Johnson made one of the main speeches at the 1933 A. F. of L. convention. Donald Richberg spoke frequently to all sorts of economic and industrial groups. In the autumn of 1934 President Roosevelt addressed the American Bankers Convention in Washington and the degree of his "affability" was evidenced by an editorial in the *New York Herald Tribune* which discussed his address under the euphonious title, "Buttering the Bankers."

Might and power in the threefold sense in which I have used them make not right—but law. The peculiar quality of the State is that within it certain persons have achieved by means, fair or foul, a monopoly in matters of law-making. Justice consists not in the conformity of a rule to an ethical ideal, but rather in rigid enforcement of law, law made by those who have achieved power and dominion over others, and see it as a means of their continuance in office.

From this theory of the State many will doubtless dissent. It simply is not in accord with the accepted view. We are taught in textbooks that we, the people, are the government; our will is supreme. Jouett Shouse, President of the American Liberty League, wrote a book not long ago, under the title, *You Are the Government*. He sought to show that government in all its phases is really

in the hands of the people. The observation, "You, the People, are the Government" appears repeatedly in his pages, but any thinking person knows that the part the average citizen plays in the modern governmental process is pitifully and microscopically small. Such talk is advertising, propaganda on a par with that of the John Wanamaker store, which blindly tells the public, "this store is your store." We all know better when the bills come in!

I should not like to leave the impression that every individual in society has an insatiable will to power. Any country may be divided, generally speaking, into three groups: the dominant group, consisting of those who for the time being have gained power; the beaten or defeated group, those who are struggling for power; and the disinterested or passive masses who take little or no active part in politics.

The art of politics consists also in controlling, by whatever means will work, this indifferent or supine element in society. And in the exercise of this all important art, unfounded beliefs are quite as important as sound ones. F. D. Roosevelt's talk about the "forgotten man" no less than Huey Long's "share-our-wealth" patter were designed and calculated to gain the attention and support of the masses. Politicians understand that it is "with words we govern men". Nor need the words they use be either sincere or intelligible. Politicians seem always to recall the observation of Machiavelli: "It is unnecessary for a prince to have all the good qualities (fidelity, friendship, humanity, and religion) I have enumerated, but it is very necessary to appear to have them." It is equally unnecessary that the words of politicians be understood; indeed their effectiveness may consist in no small measure in their vagueness.

No single concept has played a more significant rôle in domestic as well as international politics than the idea of sovereignty. This monstrous fiction was used in the American Senate not long ago to block our entrance into the World Court. To join the court, it was objected, would destroy our national sovereignty. It is increasingly evident that no State is really sovereign, "externally independent and internally paramount." The idea that government can do what it pleases is falsified by the daily facts of domestic and international politics. There are certain acts which government is powerless to perform. Parliament, for example, sovereign though it be, could not, if it desired, put an end to trade-unions. "Sovereignty" continues, moreover, to be contradicted by the events of contemporary international relations. Nevertheless artful but

obsolete politicians such as Hiram Johnson and William E. Borah are still able to use this nebulous concept, a complacent jellyfish as it were, to block the way to closer international co-operation.

Rarely has there been a more transparent myth than that of Divine Right, which insisted that the State was established by the authority of God. The last German Kaiser told the Lutheran bishops of this at their annual convocation in 1914. Equally fanciful is the Social Contract theory which held that men living in a state of nature agreed and covenanted among themselves to establish political society. This theory is written into the opening paragraphs of several of our state constitutions. Both these doctrines have exercised for centuries untold influence on the masses and do so today.

No one now contends that the Divine Right theory explains the State's origin but few would deny the important rôle it has played in the process and problem of government. It never was anything but an invention of man designed to bolster up the claim of certain persons to rule by means other than force, and also to answer the claims of priests and other churchmen to such rule. Even in those countries where the divinity of the King is no longer insisted upon, Kingship and Royalty persist, and it would be difficult to overestimate their importance in producing peace and order and facilitating solution of the problems of government. The role of the "dignified part" of the government, as Walter Bagehot characterized the Kingship in England, is well-known. It serves to gain the attachment and loyalty of the masses to a degree which nothing else possibly could. "A family on the throne", Bagehot writes, "is an interesting idea. . . . A royal family sweetens politics by the seasonable addition of nice and pretty events."

What Bagehot said of the English is equally true of men generally. "The great masses of men are uninterested in the plain, palpable ends of government; they do not prize them; they do not in the least comprehend how they should be attained. The elements which excite the most easy reverence will be the theatrical elements." Huey Long knew this, as do Mussolini, Hitler, Stalin, F. D. Roosevelt and all others who have distinguished themselves in politics.

In our own system an interesting counterpart of what Bagehot terms the "dignified part" is our so-called God-ordained constitution, too sacred to be criticized, too perfect to require change—an idea carefully fostered by such persons as James M. Beck, a former Solicitor General of the United States, the President of the Ameri-

can Liberty League, Jouett Shouse, and others who are interested primarily in maintaining the *status quo*. But the Constitution, like other political fictions, is so flexible an instrument that it is usable by all sorts and conditions of persons. It has no fixed or certain meaning even among members of the Supreme Court. When five judges, for example, upheld the abrogation of the gold clause in government contracts, Mr. Justice McReynolds proclaimed "the Constitution is gone." Yet a few months later when this same Justice joined eight of his colleagues in setting aside the NRA, Senator Borah was comforted, and thanked God that "the Constitution still stands." But for close students of the Constitution the decision of the Court in the Schechter case meant rather that "the Constitution stands still."

The conclusion is that politics is a science only in a very limited sense. In the political process there is no way of controlling conditions, a control so necessary for the establishment of scientific conclusions. Even if the conditions could be fixed, human beings, unlike atoms and electrons, cannot be expected to act and react in the same way. The appeal "back to normalcy" was strikingly effective in 1920, but there can be no assurance that at any future time it will again achieve the result desired. No prediction can be made save that the struggle for power is unending. As to the form that struggle will take, we can only say with Bryce, that it will differ from the past.

Politics is art rather than science, an art which has never been codified or completely explained; nor can it really be learned by people lacking in what may be called the political sense, which presupposes native talent and highly intuitive technique. Any concrete political situation, however seemingly transparent, cannot be dealt with by reason alone; it can only be grasped by a process similar to artistic perception. How, in a given situation to seize power or extend one's dominion; how to stage an election at the right moment, heat up a campaign to the proper point; how to confuse the ignorant by specious oratory, bold misstatements of fact, misleading nomenclature, emotional and moral appeals to indwelling prejudice; how to invoke the taboos of public morality and sectarian religion; how to establish political structure and party machinery; how, in a word, to make the most for one's own purposes out of all available human elements inherent in a given political situation—all this has never been hidden from the acute, the astute, and the daring. Such knowledge is gained by instinct and experience; reason helps little or not at all.

JUDICIAL INTERPRETATION OF THE NEW DEAL

BY JOHN H. LEEK
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In a subject as vast as The Judicial Interpretation of the New Deal it is first necessary to set some limits to the discussion. The first question that occurs to one is, what constitutes the New Deal? Is the term to be construed to cover all the legislation which has been enacted during the Roosevelt Administration? For the purposes of this paper, at any rate, it will be limited to those agencies primarily designated to achieve economic recovery, the N. R. A., the A. A. A., and the T. V. A. This interpretation excludes, perhaps somewhat arbitrarily, the mass of bankruptcy legislation culminating in the Frazier-Lemke Act of last June, which was signed by the President with great misgivings, and which ought not, therefore, to be considered a part of the Administration policy. (It might be stated, however, that all of the recent amendments to the National Bankruptcy Acts have been upheld by Circuit Courts of Appeal, though none has been by the Supreme Court.)¹ The monetary legislation ought to be included under the New Deal, but consideration of it is ruled out here on the ground that the recent favorable decision by the Supreme Court has rendered the matter of its constitutionality practically a closed question. Another important law whose validity has recently been attacked, the Railway Pension Act, will not be considered, on the ground that it was not specifically a part of the President's program.

The other portion of the title, Judicial Interpretation, perhaps also requires some limitation. It might be interpreted to cover the various constructions of the statute, but it will here be construed to extend only to the question of constitutionality; with the qualification, however, that the matter of construction is frequently an important factor in the larger subject of constitutional validity. It is with these restrictions in mind, therefore, that the cases heretofore decided in regard to the New Deal have been considered.

The figures emanating from official sources with regard to the fortunes of the New Deal have sometimes been, probably unintentionally, rather misleading. The cause of this condition of affairs

1. 2 U. S. Law Week, 661

is that emphasis is usually laid on the total number of cases instituted which have resulted successfully for the Government, or the proportion of such cases out of the total number begun. I do not mean to suggest that these figures are inaccurate, but merely to point out the fact that they include a large number of cases in which consent decrees were entered, or the defendants pled guilty, so that there was really no contest. Such cases no doubt are rightly considered as government victories, but they are practically valueless so far as establishing the constitutionality of the statute involved is concerned. If the figures are boiled down to include only the totals of cases which have been actively contested, the picture is much less optimistic from the Government standpoint. The latest official release from the Department of Justice shows that on March 1 the total number of cases instituted under the N.R.A. and the A. A. A. stood at 593.² Out of this number the district courts had taken definite action in 286 cases, and of these 223 had resulted favorably to the Government. This looks like a very impressive record, with a victory ratio of nearly four to one. But when one considers the cases which have been contested, he finds a rather different picture. Of the 286 cases, those contested numbered a little over half, or 148; and Government victories totalled only 86 compared with 62 losses, or a ratio of approximately four to three.

The trends and tentative conclusions which will be stated herein are based on a consideration of all of the available decisions of the federal courts,—Supreme, Circuit, District, District of Columbia, and Claims—down to approximately April 1. It is almost impossible to be sure that one has compiled a complete list and no two compilations seem to agree on totals. Moreover the cases differ so in nature that it is probably inexact and misleading to lump them together into categories. While, therefore, certain tendencies will be expressed in statistical form there is no intent to convey a factitious impression of mathematical exactitude. Whether a particular case should be classified in one category or another is frequently a matter in which opinions might legitimately differ, and absolute accuracy is therefore impossible. The statistical statements are used merely for the purpose of illustrating broad, general tendencies involving the several laws mentioned above.

The total number of decided cases in the federal courts which I was able to discover was around 140. Of this number, the cases in which the question of constitutionality was raised, either speci-

2. *Department of Justice release, Mar. 1. 1935.*

fically or by implication, came to approximately 100. The vast majority of these were district court cases, there being only one Supreme Court case, only three from the Circuit Courts of Appeals, and but two from the Supreme Court of the District of Columbia. Lumping all of these cases together regardless of subject matter of procedure, it was found that in 54 of them the law attacked was sustained, while in 46 it was declared invalid in some respect or other. Dividing these cases according to the laws involved, the results are as follows: N. R. A., constitutional in 50 cases, unconstitutional in 33; A. A. A., constitutional in 4 cases, unconstitutional in 11; T. V. A., unconstitutional in 2 cases.

The question which naturally arises with regards to these cases is, on what grounds were the laws held to be constitutional or otherwise? The laws all purport to be regulations of interstate commerce, and there is also an implication in their language to the effect that the existence of an emergency gives Congress a larger regulatory power than it would otherwise have. To what extent have these ideas been sanctioned by the courts? There are no specific precedents in the decisions of the Supreme Court which establish an extraordinary power on the part of Congress in time of emergency other than war, but there is a dubious statement in the case of *Wilson v. New*,³ which reads as follows:

... although an emergency may not call into life a power which has never lived, nevertheless emergency may afford a reason for the exertion of a living power already enjoyed.⁴

This curious statement has to me no meaning at all. If Congress has a power, the exercise of it rests in the discretion of Congress itself and needs no emergency to justify it; if it has no such power, the statement throws no light at all on the question whether emergency confers such a power. Yet the statement has been quoted several times, with an air of great profundity, both by the Supreme Court itself and by the lower courts, as if establishing a principle of great weight and clarity. Despite the obscurity of the statement, however, it is significant that courts usually quote it when they are disposed to uphold the power in question.

It was found that the point of emergency as a source of power was considered in some 23 cases, with the courts dividing almost

3. 243 U. S. 332(1907)

4. *Ibid.* at p. 348

evenly in regard to it, the decision being favorable in 12 cases and unfavorable in the remainder. Besides citing the above-mentioned statement from *Wilson v. New* the courts which were favorably disposed toward the emergency doctrine also referred frequently to two Supreme Court cases of last year,—*Home Building and Loan Association v. Blaisdell*⁵ and *Nebbia v. New York*,⁶ which seem to give a sort of indirect approval to the theory. In some of the cases the courts state quite boldly that the condition of nationwide emergency enables Congress to do things which it clearly could not do in ordinary times; in other cases the same result is reached by a process of legal circumlocution through an underbrush of technical verbiage. In one case, that of *Nevins Drug Co. v. Jennings*,⁷ Judge Welsh makes the charmingly frank statement that "The court takes judicial notice of the public approval of the N. I. R. A. as reflected in the last election." And the same judge, who evidently has a Jeffersonian concept of the function of the courts, says in another case (*Sun Ray Drug Co. v. McAvoy*)⁸ "Congress is about to convene, and if the provisions of this or any other code unduly restrict business, the faults may be corrected by that body." Two other quotations may be of interest in connection with this idea of emergency power. In the case of *U. S. v. Calistan Packers, Inc.*,⁹ Judge St. Sure says "Neither the Constitution nor the due process clause requires the perpetuation of conditions which impair the national vitality." And in *U. S. v. Canfield Lumber Co.*¹⁰ Judge Donohoe declares "The contention that the law is unconstitutional because it tends to deprive it (*i. e.*, the Company) of its property without due process of law, and because it is an undue invasion of the defendant's personal rights and liberties, we think is without merit because of the national emergency, which Congress has recognized and declared in the Act . . ."

Perhaps even more important, though not as novel, a constitutional question involved in these cases is whether the laws can be upheld under the interstate commerce power. The N. R. A. in particular, and to a lesser extent the A. A. A., purport to be regulations of interstate commerce. Here there are two possible lines of Supreme Court cases which might be followed. The strict con-

5. 290 U. S. 398 (1934)

6. 291 U. S. 502 (1934)

7. Dist. Ct. E. Dist. Pa.—2 U. S. Law Week 690

8. Dist. Ct. E. Dist. Pa.—2 U. S. Law Week 483

9. 4 F. Supp. 660 (1933)

10. 7 F. Supp. 694 (1934)

structionist view, typified by such cases as *U. S. v. E. C. Knight*¹¹ and *Hammer v. Dagenhart*,¹² holds that manufacturing and production are entirely distinct from commerce and that they may not be regulated by the National Government on the ground that the articles concerned are later transported in interstate commerce. The other line of argument is exemplified by such cases as the *Shreveport Case* and the *Wisconsin Rate Case*, in which the Court held that where the relationship between inter- and intrastate commerce is so close that the two can scarcely be separated, Congress may regulate the intrastate commerce in order to make effective its power to regulate the interstate.

In nearly all the contested cases this question of interstate commerce is touched on, with the court dividing almost evenly on it. In 43 cases the courts held that the regulations were valid under the interstate commerce power; whereas in 39 they held that Congress had exceeded its powers. These figures must not be taken too literally, however, for the conditions vary greatly and in some cases it is obvious that interstate commerce is much more nearly concerned than others. For instance, in the case of *U. S. v. The Spotless Dollar Cleaners, Inc.*,¹³ a prosecution for violation of the cleaning code in New York City, Judge Knox managed to uphold the Code and the law on the ground that in this particular case the actual cleaning work was done in New Jersey, whereas the clothing was collected and delivered in New York. In many instances, however, which would seem according to the standards of normal times to involve purely intrastate commerce, or not even commerce at all, the courts have upheld the law on the assumption that such regulation was necessary to make effective the power of Congress over interstate commerce. In a very few cases the court presents an ingenious idea that has, I think, a good deal of basis in fact and common sense: namely, that conditions of depression greatly increase the interdependence of inter- and intrastate commerce. In the case of *U. S. v. Wilshire Oil Co.*,¹⁴ for instance, Judge McCormick says bluntly that whether oil production is inter- or intrastate commerce depends on present economic conditions, and declares that "archaic precedents" should not furnish the standard for determining such question.

A number of courts, however, go to the opposite extreme and

11. 156 U. S. 1 (1895)

12. 247 U. S. 251 (1918)

13. 6 F. Supp. 725 (1934)

14. 9 F. Supp. 396 (1934)

deny any relationship whatever. Judge Fake in the case of *The Acme Inc. v. Besson*¹⁵ calmly ignores the decisions of the Supreme Court and rules that the question whether intrastate commerce "affects" interstate here has no bearing on the matter at all, since the idea has no foundation in the Constitution whatsoever. Circuit Judge Wilkes in *Berdie v. Kurtz*¹⁶ says likewise that the question is irrelevant with regard to the regulation of milk since the power delegated to the Secretary of Agriculture applies to interstate commerce only. In another milk case, that of *Edgewater Dairy Co. v. Wallace*,¹⁷ Judge Barnes says the fact that 40% of the milk used in the Chicago area came from other states is immaterial, since it is evident from the very language of the license concerned that the Government is trying to regulate not the commerce but the production.

Certain other grounds of possible unconstitutionality have been considered by the courts in isolated cases. Of them perhaps the most important is to the effect that the laws and the codes constituted an unwarrantable delegation of legislative power to the President. In some 18 of the cases this point was deliberated, the advantage lying with the Government by a score of 13 to 5. In most of the earlier cases the courts laid great stress on the point that the Supreme Court never had declared a law unconstitutional on such a ground, but since that court has declared the Petroleum Code partly unconstitutional on that very ground, it is to be expected that there will be an increase in adverse decisions on the part of the lower courts with regard to this point.

The question of the validity of the general welfare clause as a justification for some of the relief policies of the government has been raised in a series of interesting cases involving loans by the P. W. A. to cities for the purpose of establishing municipal electric power plants. Despite the amount of publicity given to the adverse decisions the advantage rests with the Government in such cases by a score of 5 decisions to 2. In one other analogous case it was held that housing was not a sufficiently public purpose to warrant conferring the power of eminent domain on housing agencies.¹⁸ And lastly, in some three cases the point of the vagueness of the codes was raised as a possible source of unconstitutionality. One court held the N. I. R. A. to be invalid because among other

15. Dist. Ct. D. N. J.—2 *U. S. Law Week* 684

16. C. C. A.—9th Circuit (1935) 2 *U. S. Law Week* 666

17. 7 *F. Supp.* 121 (1934)

18. *U. S. v. Certain Lands in Louisville*, 9 *F. Supp.* 137 (1935)

things, of its lack of definite standards, and in another instance the Children's and Infant's Wear Code was held invalid on similar grounds. On the other hand, a Georgia judge specifically denied that the Recovery Act was invalid on the ground of vagueness.

Mr. Dooley once suggested that the Supreme Court followed the election returns. It might be of interest to consider the decisions rendered on a geographical basis, to see whether they reflect the attitudes of the various sections of the country. Of course this is a subjective question and there is no intention here to draw any hard and fast conclusions, but the analysis on this basis may be of some interest anyway. For this purpose the country was divided into four great sections: namely, the East, extending from Pennsylvania and Delaware to Maine; the Midwest, extending from North Dakota to Kansas and east to Ohio; the South; and the West. Oklahoma and Texas are included in the Southern category. It was discovered that of 18 cases decided in the East 15 held the respective laws to be constitutional, as against 3; in the Midwest the Government was successful in 17 cases out of 28; in the West the margin was very narrow, there being 9 decisions holding laws valid to 7 otherwise; whereas in the South the adverse decisions outnumbered the favorable by 23 to 13. Without intending to suggest a relationship of cause and effect, it is nevertheless interesting to note that the decisions correspond in general to what seem to be the prevailing attitudes of the various sections of the country toward advanced legislation particularly as it applies to industry.

Mr. Dooley's aphorism also led to the idea that there might be some interest attaching to a consideration of the time element in these cases. It is notorious that there has been a recent increase in the number of cases in which laws have been declared unconstitutional, but this fact alone might not mean much, as the total amount of litigation arising out of the Recovery Acts has also vastly increased. But if it can be shown that the proportion of such cases has increased, it will perhaps establish a trend of some significance. Dividing the time that has elapsed since the enactment of the recovery laws into six month periods, we find that in the first period, from July 1 to December 31, 1933, the amount of litigation was so slight as to be wholly negligible as far as establishing a trend is concerned. Of the two cases falling within the period, one was decided favorably to the Government, and the other adversely. In the first six months of 1934, of 20 decisions rendered, 14 upheld the validity of the laws concerned,—a very comfortable margin. In the second half of 1934, while the Recovery acts still command-

ed much popular support, the margin was considerably reduced; there were 31 decisions upholding the constitutionality of the acts as compared with 22 against it. But a really startling reversal becomes evident from a consideration of the 21 cases falling in the first three months of this year. In 15 instances, or something over 70% of the cases, the laws were held to be unconstitutional. In other words as a growing minority has become more and more vocal in its hostility to the N. R. A. and A. A. A., the courts have likewise become much more aggressive as to both word and action, against these agencies.

In the light of the foregoing, certain tentative conclusions are suggested. The great diversity in the decisions of the Courts strengthens the position of those who contend that definite constitutionality and unconstitutionality are largely imaginary concepts. We speak glibly of a law being valid or invalid, whereas except in regard to a relatively few narrow and specific constitutional rules the question whether a given law is authorized by the Constitution or not is mainly a matter of opinion, and whether it is held one way or the other is more or less political accident. The nature of the debate in the Senate on the Parker nomination in 1930 makes it evident that the Senate is very much alive to this idea, and that it will henceforth scrutinize not only the legal capacity and record but also the social and economic views of any man nominated to the Supreme Court. No one doubts that if Justices Van Devanter, McReynolds, Sutherland, and Butler could be induced to resign to-morrow, that event would have a tremendous effect on the judicial status of the New Deal.

In the second place the circumstances seem to indicate that the Government has committed a tactical error in adopting a policy of such extreme caution with regard to enforcement of the codes. It is well known that the Government has, so far as possible, delayed or avoided judicial tests of the recovery acts. Just within the last few weeks the Department of Justice has asked the Supreme Court to dismiss the Belcher case, in which it was expected that the first definitive opinion as to the famous section 7-A would be handed down. Doubtless there were weighty reasons for the Government's policy, and the fact that it was advocated by no less outstanding a liberal than Professor Felix Frankfurter should perhaps give one pause in attacking it. But from the superior vantage point of nearly two years' experience under the acts, at least two serious objections can be attributed to the policy: First the hesitant, vacillating attitude of the Government

in enforcing the codes has resulted in such general evasion and violation as to render them in some respects almost a nullity. This has caused widespread cynicism both as to the value of the codes and as to the sincerity of the Government.

Second, if the Government had pushed through a test case to the Supreme Court with vigor and dispatch, so that it might have reached that tribunal in the early flush of popular enthusiasm for and confidence in the Recovery Acts, the psychology of the situation would have been much more favorable toward a decision upholding the acts. And even if the Supreme Court had decided adversely, the Government would have been in a much better position, had it so chosen, to press for a constitutional amendment enabling it to carry out its policy. In any event a Supreme Court test cannot ultimately be avoided unless the Government chooses to abandon its program entirely, and it is likely that the chances of a favorable decision are distinctly less than they would have been in the days of widespread popular support for the Recovery program.

TAXATION TRENDS AND THEIR RELATION TO AGRICULTURE*

BY C. O. BRANNEN

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The demand for public revenues and public services, historically, is at the bottom of most changes in state and local tax systems. Modifications are usually in the form of the addition of new taxes and the raising of existing rates. Accompanying the enlargement of public expenditures, significant changes have occurred in the distribution of total revenues between governmental divisions and services. The trends in both taxation and expenditure have tended, relatively, to favor the rural population.

In Arkansas in 1922 the tax system consisted of the state and local property tax, poll tax, inheritance tax, corporation franchise (capital stock) tax for corporations other than insurance and a 2 per cent gross premium tax for foreign insurance companies, gasoline and kerosene tax, motor vehicle license tax, and a variety of occupational and business licenses, including that on cigar and cigarette dealers, levied by the state, counties, and cities. The rates of these older taxes in practically all instances have been increased since 1922. In 1922 the potential property tax rate outside of cities was 35 mills as compared with 41 mills at present, and inside cities 40 mills as compared with the present 56 mills. Actual rates of levy were slightly less in both years, but in about the same proportion to the maximum authorized. The corporation franchise tax rate has increased from 10/100 of one per cent to 11/100 of one per cent, and the gross premium on insurance from 2 per cent to 2½ per cent. The gasoline tax has increased from 1 cent per gallon to 6½ cents per gallon, and automobile license taxes are about double the 1922 rate. No appreciable change has been made in the rates of the inheritance tax and no change at all in the poll tax.

To this list, since 1922, have been added the following new taxes: Severance tax on natural resources (1923), ad valorem tax on cigar sales and excise tax on ready-made cigarette sales (1924), gross receipts tax on motor vehicle carriers (1927, repealed in 1934), net income tax (1929, earlier gross income tax 1923), malt extract excise tax (1929), gross receipts tax on privately owned

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toll bridges and ferries (1929), license tax on slot machines (1931) and pool and billiard tables (1931), light wines and beer sales (1933) and manufacture for sale outside the state (1934), license and sales tax on intoxicating liquors (1935), general retail sales tax (1935), pari-mutual betting (1935, separate acts for horse and dog racing), and excise tax on oleomargarine (1935). The last four of these, recently passed by the Legislature, have not been tested in the courts.

From 1922 to 1923, according to the Financial Census, general property tax revenues in Arkansas increased from \$16,718-000 to \$19,979,000, or 19.5 per cent. In the same period special tax revenues increased from \$3,753,000 to \$14,299,000, or 281 per cent. In 1922 special taxes were 18.3 per cent of the total, but in 1932 they were 41.7 per cent of the total. For state taxes alone, special taxes in 1922 constituted 27.3 per cent, about one-fourth, but in 1932 they constituted 74.8 per cent, or about three-fourths. County governments, with the exception of the fees collected by county officials and the poll tax, continue to rely almost entirely on the property tax. City governments continue to obtain about three-fourths of their revenue from property taxes. The amounts and distributions of taxes in Arkansas by sources are shown in the following table:

GENERAL PROPERTY AND SPECIAL TAXES IN STATE AND
LOCAL DIVISIONS OF GOVERNMENT, 1922 and 1932¹

(In Thousands of Dollars)

Governmental division	1922			1932			Percentage in- crease, 1922 to 1932	
	General	Special	Per cent special	General	Special	Per cent special	General	Special
	\$	\$	%	\$	\$	%	%	%
State	4,686	1,758	27.3	4,453	13,185	74.8	-5.0	650.0
County	4,433	1,284	22.4	5,015	411	7.6	13.1	-68.0
City	1,319	711	35.0	1,671	703	29.6	26.7	-1.1
School dist.	6,280	0	.0	8,840	0	.0	40.8	.0
Total	16,718	3,753	18.3	19,979	14,299	41.7	19.5	281.0

Pressure of demand for increased public services, which until the last year or two came primarily from roads and schools, ac-

¹*Financial Statistics of State and Local Governments*, U. S. Bureau of the Census.

counts for the addition of new taxes. Old age pensions, charities, and unemployment relief, during this year's session of the Legislature, loomed large as the causes of the most recent additions.

To summarize, the tax system prior to 1921 consisted mainly of the general property and poll taxes, inheritance tax, and business licenses confined mainly to corporations. Of the 13 groups of new taxes, not counting licenses where combined with other taxes, 6 are based on excise (two of them partially ad valorem) or quantity of goods produced or sold, three on gross receipts counting parimutual betting, two on business equipment (slot machines and pool and billiard tables), one on sale value (also parts of two others), and one on income. Prior to 1921, there were no excise taxes, no ad valorem taxes except general property and inheritance, no tax on business equipment, and no income tax.

The trend is definitely in the direction of finding a specific basis for taxes. While the net income tax is a part of the system, it has never been accepted as a primary source of revenues. The general property tax is tolerated, with all of its administrative weaknesses in full force, because as yet no adequate substitute, from the viewpoint of the public at large, has been found.

During the depression when tax collections from the usual sources have been greatly reduced, and in view of the demand for a larger volume of revenues than ever, the state has resorted to more questionable bases of taxation, particularly as evidenced by the acceptance of the legalization of liquor and gambling and their taxation, if not to mention also the retail sales tax. Arguments for old age pensions and relief unemployment and unemployables had the most influence in bringing about the adoption of these measures. The fact that they were adopted indicates the reluctance of the state and the people to accept the income tax and other of the better forms, or to support strict enforcement of existing tax laws. The old saying that an old tax is a good tax ceases to be a truism.

Another development in the tax system is significant. Practically all of the newer taxes are levied and collected by the state rather than by the local governments. Much of the revenues, however, is used to subsidize public services under local administration. In other words, most taxes are levied and collected by the state but a growing percentage of the revenues is being distributed to local divisions. Outstanding examples are: State tax revenues for county roads, county agricultural education and health, local district schools, etc. The trend is in the direction of the

functions of government, so far as concerns financing, to become state-wide rather than local.

The effect of these developments is for the most part favorable to farmers. Shifting the tax to goods produced or sold, with farm products usually exempted, results, in terms of the whole volume of taxation, in relative tax relief of farmers. This is especially true in the case of the taxation of natural resources, sales, incomes, and some of the special bases used for taxing business. Farmers do not pay such taxes and are less likely than other groups to bear all or a portion of them as a result of tax shifting. And what is even more important, as the volume of revenues is thus increased public services for the benefit of farm people are improved.

While not relating directly to trends in taxation, the condition of tax delinquency and tax evasion during the depression years should be mentioned. Court interpretations over a long period of years, whereby tax sales have been set aside for numerous superficial causes, had made it difficult, if not practically impossible, to collect the property tax through foreclosure proceedings. From 1930 to 1933 property owners took full advantage of this loophole. Real estate tax delinquency and resulting tax sale in some counties reached about 50 per cent, and in some cases for personal property almost 100 per cent. From the point of view of revenues, the situation was made somewhat worse in 1933 by the passage of an act permitting the property owner to clear his tax title by the payment of one year's taxes. Even with this leniency a large amount of land was not redeemed, possibly because continued leniency in tax enforcement was expected.

During the same period the administration of special tax laws was also notoriously lenient. Very few penalties were enforced. The tax collector was little more than a bill collector, using persuasion to bring about tax payment rather than enforcing tax penalties. In effect tax payment in many instances became almost voluntary.

Early in 1935 the Legislature enacted measures, which, depending upon future court interpretations, will eliminate the use of mere technicalities for invalidating tax titles, and will provide for more adequate enforcement of the personal property tax. There is indication also that stricter enforcement of special tax laws is being applied. Whether tax delinquency continues to be used as a means of evading the property tax, and whether special tax penalties will be strictly enforced, remains to be seen.

SHOULD TEXAS ENACT A GENERAL SALES TAX?

BY VERNON HUGHES
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What should be done is an ethical matter. It is also a practical matter and assumes an analysis of conditions and relations. What should be done in the matter of taxation depends upon what has been done and how it is working; it also depends upon what can be made to work better now than what is in operation, or upon what is possible as alternatives. The questions involved are: (1) what serious consequences may result from the tax and (2) how may public welfare be best promoted? It is well also to keep in mind present expedients and the "long run" effects.

The Pros and Cons of the Sales Tax

The National Tax Association and most of the experts in the field of public finance are of the opinion that no *one* tax or method of taxation is all-sufficient, adequate, or capable of meeting the tests of good taxation. A general sales tax is not necessarily ruled out of the list of possible means of revenue under all conditions. Professor Seligman has said, "A general sales tax is the last resort of those countries which find themselves in such difficulty that they must subordinate all other principles of sound taxation to the one principle of adequacy."¹ There has been considerable experimentation with ill-advised tax measures. The after-war difficulties and the depression with its burdens on nearly all classes have caused the people to become most dissatisfied with existing taxes, which are bad enough. In this confused state of finances and mind we can expect some irrational and even foolish steps, not in line with the most acceptable principles and methods. We may well hope that the emergency and such straw-grabbing tendencies will soon pass; also, that most of the temporary and unsound measures will be foisted upon other states. The condition in Texas at present is not such that would warrant our resort to a general sales tax. In extreme fiscal difficulties, a resort to general sales taxation *may* be justifiable. As indicated above there are possible

¹R. G. Blakey, *The Tax Magazine*, Feb. 1935, p. 69 (a quotation from *Studies in Public Finance*, p. 131, New York, 1925.)

alternatives. And these alternatives usually meet the tests of a good tax much better. Certain modifications in the general property tax would make it a more suitable tax. The income tax, properly administered, would be far superior. Certain excise taxes would fit our purposes and conditions better. If the classified property tax could be made to stand up in Texas, it would probably shove aside the general sales tax. If, however, the need for revenue were great enough, and we had no chance of enacting better measures, and had a chance by this means to meet the emergency, it might be the wise thing to do. Whether wise or unwise, of course, would depend upon the benefits and the offsets. The benefits may be so great that the lesser injustices become insignificant, or the ill effects may be so great that benefits may well be foregone.

In principle, the general sales tax has been roundly denounced. Adam Smith opposed it. Jensen, in referring to its use in the Civil War, says: "Serious as was then the fiscal emergency, it was not deemed serious enough to warrant the introduction of a gross sales tax."² Professor Buehler of Vermont summarizes as follows on the use of the sales taxes: "They are regarded as emergency taxes, opposed by many classes, and retained only because revenue from any other other source is not available. . . . They have been productive of considerable revenue, and the cost of administration has not been excessive. But they are regressive in their incidence and repressive upon business."³

The general sales tax has the outward signs of uniformity and universality, and it is thought by many that equality will result thereby. It has however been repeatedly brought out that to treat unequals equally does not lead to equality.

A state sales tax, being local, has certain shortcomings not characteristic of a national tax. The sales tax is usually imposed, feeling that it should be shifted, will be shifted, and shifted fairly uniformly. This assumption, however, happens not to be entirely true. It may or may not be shifted, depending upon certain conditions. In many cases the full amount of the tax or a portion will be capitalized and taxed-businesses and properties will decrease in value accordingly.

Some businesses have little fixed capital and are very mobile. They may escape much of the tax burdens. If the tax burden is

²Fagan and Macy, *Public Finance*, p. 574. J. P. Jensen, *General vs. Selective Sales Taxes*, Proceedings of the National Tax Association, (1929), pp. 403-412.

³*Ibid.*, p. 575.

shifted forward to labor and labor is mobile and flees to escape, the cost of labor in the state will increase.

If property tax-payers were a different set of people from those on whom sales taxes were imposed, they would be relieved; but, insofar as they are the same folk, it is a clear cut case of taking out of one pocket and putting into another. And there may be some waste in the transfer. The extra cost of collection may impose a heavier burden on the people than would an increase of existing forms of taxes. Even if the burden were not heavier, there would likely be some people whose properties would be taxed lightly and thereby fail to share equitably in the tax burden. Jensen contends that in West Virginia the sales tax on mineral products has reduced property values more than a property tax levy yielding the same revenue. The costs of collections have increased from 1 per cent at one time to 2 to 4 per cent. R. G. Blakey⁴ feels that costs will be considerable with either high or low rates, but greater evasion will exist with high rates. There will be a high cost of collection to any approximately uniform or perfect administration, and without it the operation is likely to become a farce, and little revenue derived therefrom. The Report of the Committee of the 42nd Legislature on taxes feels that the sales tax has some features to commend it. It is universal, being placed on all articles, has great revenue possibilities, permits installment payments, and has little effect on the allocation of industry. But, despite the merits, the infirmities outweigh: "This tax probably falls heaviest on the small merchant A large chain store group has the ability to make its purchases more advantageously This form of tax takes little account of ability to pay, and is the most successful form of tax on poverty To the extent that it took the tax off the landlord, it would pass it on to his impoverished tenant It offers wide-spread opportunity for fraud It pyramids with multiple sales Its administration would be expensive, intricate, and difficult. . . . and there is no uniformity between the states The inevitable tendency of any form of sales tax that adds definitely to the sales price is to increase the volume of interstate purchases Texas is peculiarly susceptible to this influence, with its long border line."⁵ At present however all the states bordering Texas have some sort of sales taxes. Prevention of pyramiding of the sales tax can be made to check some of the worst inequalities

⁴R. G. Blakey, "The Sales Tax," *The Tax Magazine*, Feb., 1935, p. 66.

⁵*Report of the Texas Survey Committee*, pp. 69-70.

of shifting of incidence and the shifting of labor and capital. Around the boundaries of states with sales taxes and states without sales taxes or where there are differences of the relative burdens of the taxes, there is likely to be a drying up of the sources of taxes in the states of higher burdens. States are rightly opposed to destroying their industries or chance for industrial development by tax measures. The Chambers of Commerce of border cities and sections very strenuously oppose such discriminating taxes. Interior sections are not so hard hit. Some industries would be worse hurt by the sales tax than others due to the type of goods and market conditions.

The burden of the general sales tax does not correspond to the net earnings or income from sales. Sales bear different ratios to turnover and capital employed, thus making for unequal burdens of the sales tax.

The general sales tax does not allow the working of the police functions of government through taxation as free play as might be desirable. Some parasitic and luxury sort of industries might be repressed or destroyed with considerable benefits to society.

The most universal and simple sales taxes are easiest to administer but most inequitable as a rule. Complications of administration and evasions enter in proportion to exemptions and exceptions.

Governor B. B. Moeur⁶ of Arizona states that the sales tax is both just and popular; it gives a broad tax base and equitable distribution.

Governor Merriam⁷ of California states that the emergency sales tax of California was strenuously opposed before adoption but will likely be continued for its productiveness and to replace the excessive burden on real estate.

The small expense of administration is a talking point of its proponents in its favor; but that is not true except in the case of the sales tax being a lieu tax, replacing one of higher cost of administration. The proponents of the sales tax further contend that it makes the whole people pay the tax bill, instead of the load being borne by about 25 per cent of the people, and that it is paid little by little, thus causing no heavy burden at any particular time.

The *Senate Journal* calls attention to its general praise, the

⁶Appendix, *Senate Journal*, Feb. 21, 1935 p. 515. (44th Texas Legislature.)

⁷*Ibid.*, p. 516.

instillation of pride and interest in government, the equalization of existing burdens of taxation, and numerous outstanding merits. Quoting: "Ample evidence of the fact that this method of taxation is sound and much more equitable than that now applying in this state . . . it presents the most practicable solution of our tax difficulties at the moment."⁸

Conclusion

Neither are all industries nor are all sales equally able to bear tax burdens. Not all industries are equally desirable or necessary. A general sales tax that takes proper account of the differences would be tedious and difficult to administer. A reasonably administrable general sales tax would be palpably unjust and destructive of some industries. The injustice and impracticability of a uniform rate for all commodities carried by railroads is similar to that to be found in an effort to apply the general sales tax. Equality is not there to start with, and, to attempt to apply superficial equality will not bring about equality.

Jensen says the following with reference to sales taxes yielding a moderate share of state and local revenue: "I am led to the conclusion that uniform general sales taxes are the worst; uniform general retail sales taxes, the intermediate; and selective sales taxes, with suitable adjusted rates, the least objectionable for the purpose."

Texas can do much better than to resort to the so-called fiscal panacea of the sales tax.

⁸*Ibid.*, p. 520.

MOTLEY'S VIENNA MISSION

BY LEON F. SENSABAUGH
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During the Civil War the American government was extremely fortunate in having a number of unusually capable men as its diplomatic representatives in several of the European states. One of these men was John Lothrop Motley.¹ While it is true that the Vienna mission did not give the eminent citizen of Massachusetts any particular chance to display a latent diplomatic ability, Motley's reputation as an historian and his ability to comment in an interesting manner on contemporary political movements made his stay in the Vienna capital one of more than passing interest. Certain phases of Motley's mission are well known, but there remain many interesting sidelights which are worthy of some comment.

John Lothrop Motley, the second child in a family of eight, was born in Dorchester, Massachusetts, April 15, 1814. As a boy he was rather delicate in health, although he did participate in swimming and skating. "He was a great reader, never idle, but always had a book in his hand,—a volume of poetry or one of the novels of Scott or Cooper".² He was of a sensitive nature, easily excited, and possessed an unusual sense of honor and truthfulness.

His early schooling took him for a summer to Mr. Green's school at Jamaica Plain, and from there he was sent to Round Hill at Northampton. Here he was under the tutelage of Messrs. Cogswell and Bancroft, and it was under the guiding hand of the latter that the young Motley acquired a thorough knowledge of the German tongue.

At the age of thirteen the young student entered Harvard with the reputation of being quite a linguist, and with little effort he maintained a good standing. He was "haughty in manner and cynical in mood". While Motley did not aim at or attain an unusually high scholastic rank, the rules of Phi Beta Kappa were extended so that he might become a member. After gradua-

¹Some of Motley's colleagues were Anson Burlingame, Charles Francis Adams, Henry S. Sanford, William Dayton, George P. Marsh, Thomas Corwin, Carl Shurz, and John Bigelow.

²Oliver Wendell Holmes, Ralph Waldo Emerson—John Lothrop Motley. *Two Memoirs*, 331.

tion from Harvard he continued his studies in the German universities of Göttingen and of Berlin. At the former institution Motley made the acquaintance of Bismarck, and when they went to Berlin they became fellow-lodgers. The friendship which followed lasted until they were separated by death. One of Bismarck's descriptions of Motley, written to Dr. Holmes after the death of the historian, is of interest. The Prussian wrote that the most striking feature of the handsome and delicate Motley was his "uncommonly large and beautiful eyes". He added that the American never entered a drawing-room without exciting the "curiosity and sympathy of the ladies".³

The years which preceded Motley's appointment as minister, however, are beyond the scope of this study. It was the period which witnessed his marriage, the publication of his first novel, "Morton's Hope", the beginning of his historical writings, his friendship with Prescott, further travels in Europe, and, finally, the publication of the "Rise of the Dutch Republic". Following the publication of this latter work, Motley visited the United States, but in 1858 he returned to England. Two years later the first two volumes of his "History of the United Netherlands" appeared.

While the now famous historian was revelling in the struggles of the sixteenth century, his attention was rudely drawn to a far more serious struggle. His beloved country was on the brink of a conflict which might spell disaster for the Union. Motley's "love of country . . . would not suffer him to be silent at such a moment. All around him he found ignorance and prejudice. The quarrel was like (sic) to be prejudged in default of a champion of the cause which to him was that of Liberty and Justice."⁴ In order that the English and the Europeans might better understand what was taking place in the United States, Motley wrote two long and timely letters to the London "Times." The effect which these letters produced was quite beneficial to the northern cause. In his short biography of Motley, Dr. Holmes says that⁵

Had Mr. Motley done no other service to his country, this alone would entitle him to honorable remembrance as among the first defenders of the flag, which at that

³Holmes, 343.

⁴*Ibid.*, 403.

⁵*Ibid.*, 404

moment had more to fear from what was going on in the cabinet councils of Europe than from all the armed hosts that were gathering against it.

Not long after these letters had been published, Motley returned to America, where, much to his surprise, he received the appointment of minister to Austria. The post had been previously offered to Anson Burlingame, but he was *persona non grata* to the Austrian government because of his sympathy with Hungarian independence. It might also be mentioned that there were objections to Motley, but those objections came from home and not from abroad. It was considered by some that Massachusetts already had its share of representatives in the diplomatic service.

On August 13, 1861, the secretary of state informed Motley that he had been appointed Envoy Extraordinary and Minister Plenipotentiary of the United States to Austria. Seward asked for an immediate decision, and should the answer be favorable he desired to know when the new appointee could leave for Vienna. Two days later Seward transmitted to Motley the personal instructions of the state department, and at the same time informed the new envoy that his salary would be \$12,000 a year, beginning on the tenth of the month, the date of the commission. The minister was also to have an annual contingent fund of \$500.⁶

The importance of having a capable man at Vienna was certainly appreciated by Seward. In his previous instructions to Burlingame, the secretary of state had stated that⁷

It seems to me that our mission to Austria has not been made as useful hitherto as it ought to have been. I think, indeed, that it has been generally undervalued.

Our representatives at Vienna seem generally to have come, after a short residence there, to the conclusion that there was nothing for them to do and little for them to learn

Seward warned Burlingame that Vienna was the political center of Europe, and that the new minister might "expect to meet agents of disunion there seeking to mould public opinion . . ." Should these Confederates offer Austria more favorable trade agreements, Burlingame was to point out to the Austrian government that the

⁶Photostat copy of MSS., Department of State.

⁷*The Diplomatic History of the War for the Union* being the fifth volume of the works of William H. Seward. Edited by George E. Baker, 213-214.

insurrectionists would need money in time, and that such revenues would probably have to come from duties and tariffs.⁸

Meanwhile Motley had accepted the post, and the trip to Europe began. The voyage, which consumed just eleven days, was singularly pleasant. While in England, Motley conferred with Lord John Russell, and while *en route* to Vienna the American minister held a brief conference with M. Thouvenal, the French foreign minister. Motley finally reached Vienna on the last day of October, and on the third of November he called on Count Rechberg, the Austrian foreign minister. The new minister was accompanied by his predecessor, J. Glancy Jones. The count informed Motley that relations with Minister Jones had been very cordial, and he was sure that this friendliness would continue. Motley wrote Seward that the reception was "extremely flattering", and that furthermore he had been informed that his appointment had been received with "especial satisfaction" by the emperor. Motley and the count spoke freely on American affairs, and the New Englander took pains to go fully into the various American questions. Motley expressed the opinion to Seward that it was probably the first time that Count Rechberg had ever heard "any such exposition of our policy."⁹

A few days later, November 14, 1861, Motley was privately received by the emperor, and the conversation which ensued was carried on in German. The emperor asked Motley if he were a German, and when the minister replied in the negative, Franz Josef then asked if he were of German extraction. Motley informed the emperor that his ancestors were English. In giving an account of this interview Motley naïvely told Seward that he repeated the story, not as a sign of egotism, but merely to show the curiosity of the emperor! The American minister also took this opportunity to present to the emperor the *true* state of American affairs. When the emperor expressed great surprise at the size of the Confederate armies, Motley assured him that the forces would soon melt away! Motley concluded his report of the interview by prophesying that Austria would be greatly influenced by the action of France and England.¹⁰

Scarcely had Motley settled in Vienna when the news of the Trent affair was received. He was unusually disturbed, and although he believed that the law was on the side of Captain Wilkes,

⁸*Ibid.*, pp. 217, 220-221.

⁹*Diplomatic Correspondence*, 1862, II, 554-555.

¹⁰*Ibid.*, pp. 557-558.

the minister greatly feared the consequences. Motley wrote that¹¹

If the commander of the *Jacinto* [sic] acted according to his instructions, I hardly see how we are to extricate ourselves from this dilemma

His pessimism was succinctly expressed in a letter to his mother in which he said: "I never expect another happy hour, and am almost broken-hearted."¹² A short time later he again poured out his feelings to his mother when he admitted that if a war should take place between England and America he would be in danger of losing his reason. The New Englander was more than relieved when the news of the settlement reached him, and at the same time he prophesied that¹⁴

One thing is perfectly certain, if we continue to dally with the subject of emancipation much longer, and continue our efforts to suppress the rebellion without daring to lay a finger on its cause, we shall have the slave confederacy recognized by all the governments of Europe before midsummer.

Yet at the same time he admitted that he had never had such confidence in the Washington authorities!

The peaceful settlement of the Trent affair did not terminate Motley's worries, for a new diplomatic spectre soon appeared in the form of the Maximilian danger. After the empire had been proclaimed, Motley asked Seward for instructions on this "very important question". At the same time he informed the secretary of state that while Maximilian was desirous of accepting the crown, the whole project was unpopular with "all classes of society, so far as I have been able to observe." He also stated that the press, although guarded in its statements, was generally hostile to the

¹¹*The Correspondence of John Lothrop Motley*. Edited by George William Curtis, II, 46.

¹²*Ibid.*

¹³*Ibid.*, II, 49. In an interview with Count Rechberg the dangers of an Anglo-American rupture were emphasized very strongly by the Austrian minister. *Diplomatic Correspondence*, 1862, II, 559.

¹⁴*Ibid.*, II, 54.

plan.¹⁵ In reply, Seward informed his anxious minister that since Austria had not expressed any intent on the subject it was not necessary to raise the question at Vienna.¹⁶ The American minister continued to seek both information and instructions on the subject, but his efforts were generally abortive.¹⁷

Motley had been a little more successful, however, in obtaining information from the Austrian government. As soon as he heard of the joint occupation, the American minister hurried to Count Rechberg. In the course of the conversation the American remarked that it would hardly be fitting to say anything about Mexico, but Count Rechberg replied that on the contrary he was "quite ready to talk". He stated that¹⁸

we are ourselves simply in a position of expectancy We have nothing to do with it, and intend to have nothing. Should the result of the enterprise be to establish a stronger government in Mexico, a monarchy, it will then be for the American government to consider whether sufficient guarantees of various sorts as to its stability can be offered in order to induce an archduke of our imperial house to make the great sacrifice of mounting its throne.

When the empire was proclaimed Motley again sought an interview with the Austrian foreign minister. The count informed the American representative that¹⁹

We do not consider our position essentially altered. We are not prepared to take action on what may prove

¹⁵*Diplomatic Correspondence*, 1863, II, 928. Extract from *Die Presse*, August 11, 1863. "We, however, believe that we are a faithful organ of the opinion of the Austrian people when we say, without concealment, that the acceptance of the crown by the Archduke Ferdinand Maximilian would not be looked upon . . . as a piece of good fortune, but, on the contrary . . . as an evil destiny." Enclosure, Motley to Seward, August 17, 1863. *Ibid.*

¹⁶*A Digest of the International Law of the United States* taken from documents issued by the presidents and secretaries of state, and from decisions of Federal Courts and opinions of attorneys-general. Edited by Francis Wharton, 317-318.

¹⁷Even the later reports that the French government had arranged for the cession of Texas to Mexico failed to stir Seward into a definite reply to Motley's inquiries. It was supposed that the large German population in Texas might welcome a German prince. *Diplomatic Correspondence*, 1864, IV, 116.

¹⁸*Ibid.*, 1862, II, 563.

¹⁹*Ibid.*, 1863, II, 927.

to be an ephemeral demonstration. We regard all that is reported concerning the whole affair—so far as relates to His Imperial Highness—as not having occurred.

Motley then inquired whether or not a deputation was on its way from Mexico to offer the crown to the archduke. Rechberg replied that such was possible, but that it was very doubtful that it would be received. The American minister then asked if it were true that Napoleon III had sent a telegram of congratulation to the archduke. The count replied in the affirmative, but added that the French emperor did not attach much weight to the information from Mexico. Motley then took his leave.

A month later, September, 1863, Motley informed Seward that Count Rechberg had again been seen, but very little information had been gained. He had understood the count to say, however, that no binding agreement had been made with the Mexican deputation, and since the matter was a personal one with the archduke the affair remained, so far as the imperial government was concerned, as before. Motley had continued his questioning by asking if the provisional government in Mexico had recognized the Confederacy. The count informed the American that he knew of no such provisional government. Although the foreign minister admitted that a communication had been received from such a source he declared that it had not been and would not be answered.²⁰

While Motley spent much of his time in writing to Seward for instructions or in having audiences with Count Rechberg, he did find some time to give numerous expressions of antipathy for the instigator of the Maximilian trouble. "We are in a great mess in Europe," he complained in 1863. "The Emperor of the French," he continued, "whom the littleness of his contemporaries has converted into a species of great man, which will amuse posterity, is proceeding in his self-appointed capacity of European dictator."²¹ Motley had to admit, however, that the way Louis Napoleon had "bamboozled" Maximilian was one of the "neatest pieces of escamotage ever performed." Motley's conception of the chicanery of the French emperor was expressed on another occasion when he referred to Napoleon as the "Prince of Darkness".²² In time, however, Motley was able to gloat over the

²⁰*Ibid.*, 1864, IV, 114-116.

²¹*Motley Op. Cit.*, II, 114.

²²*Ibid.*, pp. 156-157.

lowered prestige of Louis Napoleon. Writing to his daughter, Lily, after the Austro-Prussian trouble, he joyfully stated that²³

The most consoling thing in the whole history is to see how delightfully Mr. L. N.—has been jockeyed. His influence on the continent of Europe is for the time neutralised, and people will begin to find out before long that a quack who never did anything great or good in his life, while always pretending to miraculous power, is neither a genius nor a benefactor, but an intolerable nuisance. In these great transactions he has been a cipher.

Until the end of the war the Maximilian question made only an occasional appearance. When hostilities ceased, however, the United States was free to deal with the foreign powers. In the spring of 1866, Seward sent to Motley the well known instructions in which he informed the American minister that the sending of Austrian troops to Mexico would constitute a state of war between those two countries. Seward added that under these conditions the "United States could not engage to remain as silent and neutral spectators."²⁴

Motley was more than surprised at this sudden reversal of policy. He attempted to mitigate some of the harsh features of the note, but Seward's disapproval fell heavily on the shoulders of the perplexed minister. When Motley raised certain objections, Seward refused to consider them, and at the same time ordered the minister to withdraw from Vienna if troops were sent. Motley was thus forced to carry out the instructions, and the Austrian government complied with the demand.²⁵ While the minister later defended his actions, the defense was not very convincing. He expressed the hope, however, that²⁶

²³*Ibid.*, pp. 242-243.

²⁴Wharton, *Op. Cit.*, I, 328

²⁵John H. Latané, *A History of American Foreign Policy*, 416. "A telegram in the Viennese papers this morning," wrote Motley to Lily, "announces that the London *Times* stated yesterday that Mr. Seward has instructed me to leave Vienna instantly if a single Austrian volunteer is shipped for Mexico. He was probably kind enough to hand the despatch to the *Times* correspondent instead of to me. Anyhow, it has not reached me, and I don't expect it". Motley, *Op. Cit.*, II, 218.

²⁶*Diplomatic Correspondence*, 1866, I, 665.

whatever may be thought of my own part in this grave affair you [Seward] will not be dissatisfied with the general result.

With the possible exception of the Maximilian problem, Motley's official duties were never pressing. Consequently, he had ample time to work on the last volumes of the "United Netherlands", and to comment profusely on the various topics of the day. "I find the dead men," he wrote to his mother, "much more lively companions than many I meet with when I go out into what is called life. Fortunately I have very little public business, so little that I am almost ashamed to take a salary for doing it."²⁷ Much of the minister's time was spent in correspondence with his American literary friends, with the members of his family, and with his various English friends. He was an excellent reporter, and the state department was always well informed on the various European movements which occurred while he was in Vienna. Seward often commended Motley for his lucid accounts of current European affairs.

From the very genesis of his mission Motley kept a close watch on the pulse of European opinion. His general complaint was that no one in Europe had the faintest conception of American affairs. Although Motley believed that the masses throughout Europe sympathized with the north, he was amazed at the general ignorance which prevailed. He wrote to his mother that²⁸

The spectacle of a great people going forth in its majestic and irresistible power to smite to the dust the rebellion of a privileged oligarchy, is one so entirely contrary to all European notions that it is hopeless to attempt making it understood.

On the other hand Austria's early expression of friendship brought joy to the heart of the New England abolitionist. He frequently commented on the sympathy which Austria expressed for the United States. He informed Seward that²⁹

In this empire. . . there have been no malevolent manifestations at any period. If there has been any calumny

²⁷Motley *Op. Cit.*, II, 194.

²⁸*Ibid.*, p. 79.

²⁹*Ibid.*, p. 118.

or misrepresentation by the press of Vienna, it has entirely escaped my notice; while, on the other hand, the general tone of journalism has been respectful, and often very sympathetic.

During the first year or so of his stay in Vienna, Motley filled his letters with invectives against slavery. He was particularly wroth over the failure of the administration to turn the war immediately into an antislavery crusade. He wrote to his mother that he lived in "daily dread of hearing that hideous word 'compromise' trumpeted to the world". "Slavery", he added, "is bad enough as an enemy, but the Lord deliver us from it as a friend! If we do not smash the accursed institution now that we have the means, we shall have the rebellion back again before we have been six months at peace"³⁰. . . . While he was not very optimistic over the immediate settlement of the slavery question he told his daughter that she would live to see the day when the "great commonwealth, the freest and noblest that ever existed in history" would be "purged of the foul disorder which has nearly eaten away its vitals."³¹ In the same vein he told Seward that³²

The American people will carry on its righteous war of self-defense so long as a single rebel remains in arms to threaten the national existence, or to extend and perpetuate the accursed institution out of which all our misery has flowed.

The negotiations for the settlement of the Danish war brought Otto von Bismarck to Vienna, and at the same time gave Motley a chance to renew his friendship with the great Prussian. Emil Ludwig, in his interesting biography of the "Iron Chancellor" says that Motley was one of the two, real, life-long friends that Bismarck had. "In the medley of malicious and stupid folk", writes Ludwig, "Motley is a man upon whom he [Bismarck] can build; he is Bismarck's friend."³³

About the time the conference opened Bismarck wrote to Motley in the following manner:³⁴

³⁰*Ibid.*, II, 71.

³¹*Ibid.*, p. 101.

³²*Diplomatic Correspondence*, 1864, IV, 132.

³³Ludwig, Emil, *Bismarck, the Story of a Fighter*, 326.

³⁴Motley, *Op. Cit.*, II, 159-160.

Jack my dear—Where the devil are you, and what do you do that you never write a line to me? I am working from morn to night like a nigger....

Let politics be hanged and come to see me. I promise that the Union Jack shall wave over our house, and conversation and the best old hock shall pour damnation upon the rebels.

When his friend arrived in Vienna, Motley was delighted. He informed his mother that the only interesting part of the Vienna conference was the presence of Bismarck. In a letter to Lily, Motley described Bismarck's visit to the legation and their dinner *en famille*. They had remained at the dinner table until 11:30, much to the consternation of the servants. The next day, according to the minister's account, the Vienna papers carried the story of the dinner that Sir John Motley had given the distinguished Prussian. The papers also carried the names of numerous guests who had not been invited, and many of whom were not even known by Motley.³⁵ The American minister also met the Prussian king during the negotiations. The interview was brief, for it had occurred between the acts of a play. Motley admitted that the king must have taken him for an idiot, because he answered all of His Majesty's questions incorrectly. After the play and the audience were over, Motley tells us that he went home tired and hungry, but before retiring he consoled himself with a pot of beer!³⁶

Motley's official position and his reputation as an historian brought him in contact with the highest Austrian society. The New Englander, however, was never very enthusiastic over Vienna's Four Hundred. He admitted that he had been spoiled by English society, yet he granted that³⁷

there is a great charm of manner about the Austrians.
The great distinction between Vienna and London com-

³⁵*Ibid.*, p. 171. An unusual description of Motley is found in one of Bismarck's letters. "I never pass by old Logier's House, in the Friedrichstrasse", he wrote, "without looking up at the windows that used to be ornamented by a pair of red slippers sustained on the wall by the feet of a gentleman sitting in the Yankee way, his head below and out of sight." *Ibid.*, p. 127.

³⁶*Ibid.*, p. 173.

³⁷*Ibid.*, 55-56.

pany is that here the fine world is composed exclusively of folks of rank and title; *there* every illustration from the world of science, art, letters, politics, and finance mingle in full proposition with the patricians, and on equal terms. Society so constituted *must* be interesting and instructive.

Motley's boredom was expressed time and time again. Such expressions as "We dribble on in the even tenor of our . . . ways," or "We are stagnant as usual here," and "We are humdrumming again filled his letters. Yet on one occasion when a party might have broken the monotony, the Motleys were forced to decline because the affair was held on Sunday. The Motley family celebrated by "remaining calmly within doors in the bosom of our respected family".³⁸ Although the minister entertained occasionally,³⁹ the erudite American considered Austrian society somewhat frivolous. "Vienna," he informed his mother, "is probably the city in the world where the least reading is done in proportion to the population, and the most dancing." He told his daughter that in "Austria, birth is everything . . . wit, wisdom, valour, science comparatively nothing."⁴⁰ Motley's particular antipathy was the *salon*. As the social season began he lamented that⁴¹

Soon begins the season of the 'Salons'. Now if there is any one thing more distasteful to me than a ball, it is a salon. Of course I do not object to young people liking to dance But I think that no reasonable being *ought* to like a salon. There are three topics—the Opera, the Prater, the Burg Theatre; when these are exhausted, you are floored.

So, as time went on Motley became more and more of a bore, at least so he admitted to Lady William Russell.

Motley rarely complained about anything, but in 1864 an interesting, yet almost trivial, problem arose which brought forth

³⁸*Ibid.*, pp. 83, 90, 108, 116-117.

³⁹On one occasion the Motleys had a formal party. Since it was customary to send verbal invitations, there were no replies. At 9:50, of the night of the party, there were only a few guests. But at 10 o'clock they all came in a rush. The party was success! *Ibid.*, pp. 123-124.

⁴⁰*Ibid.*, pp. 148, 246.

⁴¹*Ibid.*, p. 117.

several complaints. On various occasions the despatches were not received as quickly as they should have been. From other sources Motley would learn of what was taking place in America before his own papers would arrive. In a long letter to Seward, July 26, 1864, the American minister complained that⁴²

The want of accurate telegraphic intelligence concerning American affairs at this legation . . . is really a very serious practical evil. The telegraph has everywhere superseded the post; but for us it may be said that the post has been abolished and no substitute provided . . . This is comparatively of very little consequence; but it is not an indifferent matter that a representative of the United States should thus always be ignorant of the condition of his own country . . . our despatches . . . never arrive until after a new telegraphic fiction or enigma has already destroyed their value.

In order to maintain the dignity of his office, and to exercise a proper influence among his colleagues . . . he [the American minister] ought always to be furnished with a full statement of the truth . . . Otherwise he must continue to be in perfect ignorance of the current history of his own country.

The minister then went on to point out how the enemies of the United States were using this new method of communication. He said that some two years previous some one handed him a paper which contained the news of the surrender of General McClellan to General Lee. Although Motley said that he knew the news to be false, he had to wait days before his official despatches came so he could prove the information to be erroneous. But the minister's eloquent appeal came to naught, and he continued to receive his despatches in the usual fashion.

The presidential election of 1864 turned Motley's thoughts definitely towards the political future of his beloved country. The congressional elections of 1863 had more than pleased the minister. He wrote to his mother that the success of the party in Ohio, Pennsylvania, New York, and Massachusetts was of "far more consequence than battles . . ." In the fall of 1864, however, Motley's fears arose. McClellan's possible nomination by the

⁴²*Diplomatic Correspondence*, 1864, IV, 153-154.

Democrats caused the staunch Republican to dread the possibilities more than he dared express. When the news of the general's nomination reached Vienna, Motley's uneasiness increased. The next few weeks must have been torture to him, but when the news of Lincoln's reelection arrived, the happy minister wrote to his daughter that⁴³

I thought that I should have much to say about the result of the election. But I am, as it were, struck dumb. The more than realization of my highest hopes leaves me with no power of expression except to repeat over and over again—

'O Grosser Gott, im Staube danke ich dir.'

Motley's Vienna mission was filled with many other interesting features, but they are too numerous to mention. His word pictures of the various European movements, his comments on American civil and military leaders, his correspondence with Dr. Holmes, James Russell Lowell, and Lady William Russell would constitute still another study. So the story of Motley's mission must be brought to a close, as unfortunate as the end was.

The minister's troubles began when the president of the United States received a letter from one George W. McCrackin. The letter, dated November 11, 1866, was sent from Paris. It was filled with vituperative accusations against American ministers, agents, and consuls abroad. The letter was particularly bitter against New England, especially Massachusetts. The epistle charged that Motley had not attempted to conceal his disgust over affairs in the United States. Motley was further charged with despising American democracy, while at the same time he had proclaimed that an "English gentleman is the model of human perfection." Further statements attributed to Motley charged him with saying that the president had deserted his "pledges and principles in common with Mr. Seward, who, is hopelessly degraded."⁴⁴

The damaging letter soon found its way into the hands of the secretary of state. Dr. Holmes contends that⁴⁵

Most gentlemen . . . would have destroyed it on the

⁴³Motley, *Op. Cit.*, II, 191.

⁴⁴*Senate Document*, 39th Congress, 2nd session, vol. II, no. 8, pp. 1-2.

⁴⁵Holmes, 424.

spot, as it was not fit for the waste-basket. Some, more cautious, might have smothered it among the files of their private communications. If any notice was taken of it, one would say that a private note to each of the gentlemen attacked might have warned him that there were malicious eavesdroppers about, ready to catch up any careless expression he might let fall and make a scandalous report of it to his detriment.

Evidently the administration lacked those certain gentlemanly qualifications—at least those defined by Dr. Holmes—for Seward, at the suggestion of the president and without protest on his own part, addressed notes to the ministers in question, and requested them to deny or confirm the accusations which had been made. To Motley went one of these notes.

Although Motley was not charged with being a "thorough flunky" and an "un-American functionary," Seward's letter was more than the "high-spirited, very impulsive, very patriotic, and singularly truthful" Motley could stand. He did not deny that he had discussed American questions, particularly those of Reconstruction, with his family and with occasional American visitors. He contended that he was still an American citizen, and that he had not been denied the right to discuss American questions within the walls of the legation simply because of his official position.⁴⁶ "I have always been cautious, however," he wrote, "in such conversations to avoid any expression of disrespect towards the President or his cabinet." He continued his defense by adding that any one who knew him, knew him to be a firm believer in democracy. As for the statement about Seward, Motley wrote that it was a "vile calumny, and it wounds me deeply that you [Seward] would listen for a moment to such a falsehood."⁴⁷

Evidently one of occasional American visitors was McCrackin. But just who he was, and when he visited the legation remained a mystery to the American minister. In writing to Dr. Holmes on the subject, Motley stated that⁴⁸

George W. McCrackin is a man and a name utterly unknown to me I am quite convinced that he never saw me nor heard the sound of my voice his letter

⁴⁶*Ibid.*, pp. 425-426.

⁴⁷*Senate Documents*, 2-3.

⁴⁸Motley, *Op. Cit.*, II, 257.

was a tissue of vile calumnies, shameless fabrications, and unblushing and contemptible falsehoods

Meanwhile Seward's letter had made up Motley's mind, and the minister-historian hurriedly resigned his post on December 11, 1866. No effort was made by the administration to soften the blow, and Motley certainly considered the whole affair a false stain on his record.

GOALS FOR AGRICULTURE IN THE SOUTHWEST.*

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For those whose intellectual make-up requires an indicator of direction as well as a method of procedure the sense of need for objectives becomes keenest in times of rapid and far-reaching change. We are living in days when we have change enough, pending or in process, to stimulate interest in the direction of change even in the most casual observer. Not since the time of the Great War has the course of events moved so swiftly.

Agricultural people are just now particularly sensitive to indicators which point the direction of change and partial to goals whose attainment will give richer meaning to the recovery of economic health. The task of discovering these indicators and defining goals becomes more difficult, however, as the imperative to do so appears in the form of a mandate from the masses rather than as a request from the more ambitious few. The voice of the many cannot be misunderstood even though their gaze toward distinct horizons lacks steadiness and direction.

Goals for a long-time program for agriculture may be so conceived as to fit the needs and conditions throughout all of the main agricultural regions of the United States or so as to more definitely meet the needs and conditions of a particular region or section of the country. For present purposes it seems desirable to select certain goals of greater than sectional or regional importance and to so define the means for their attainment that they take on peculiar significance for the agriculture of the Southwest.

A premier achievement for agriculture would be to domicile a population whose native abilities, bodily vigor, and inherent energy would make it capable of conserving and transmitting to future generations the hardiest and most intelligent elements of our human kind. To those who are most sensitive to the complementary nature of the multiple components of heredity and environment it seems clear that man's whole organism must, through the centuries, have become finely adjusted to out-door conditions of living. His experiences and adaptations thus acquired

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did not prepare him for the rôle of a city-dweller such as millions have become during more recent decades. Evidence is accumulating to show that his adjustments to the conditions of urban-industrial life have not been entirely satisfactory. Assuming that agriculture's environmental advantages are few but basic to the perpetuation of vigorous and able human beings, the deliberate acceptance of this function in our national life would set the pattern of agriculture's first great goal. It would be to attain and to preserve on the land *a population of men and women of superior quality* physical, mental and moral, as a primary contribution to the nation's resources.

Another goal is *security* for those who live on the land. This security, more specifically defined for agriculture in the Southwest, could be rooted in balanced farming systems, in stable tenure of land, and in well-knit primary group relationships. Balanced farming systems provide reserves of provisions for the family and its hired help and of feed for livestock, against the day of need because of drought, blight, or other forms of devastation. They insure soil conservation and enrichment and promote orderly procedures in economic endeavor. Security under balanced farming systems need not, however, mean mere self-sufficiency but should also require careful attention to favorable conditions of soil, climate, and location in the production of certain important crops. Greater self-sufficiency on the individual farm-stead and more efficient production with an eye to comparative advantage by regions are not incompatible goals.

Stable tenure of land permits not only personal but family achievement on the land. It makes for a greater security within the circle of familial relationships. It encourages the farmer to make farm improvements which combine permanence and beauty with usefulness. It bolsters public programs of soil conservation and improved land use.

Fully as important to security in agriculture, as balanced farming systems and stable tenure, are well-knit primary group relationships. Since agriculture is essentially a family industry it is founded in a genuine sense upon group loyalty, understanding, and mutual effort. The sociological basis of security in agriculture is fully equal in importance, to the economics of tenure and management.

Closely related to security is the goal of an *adequate living* for farm people. The pattern of this goal is the product of achievement and aspiration. Achievement quite definitely limits goods

and services that make up the living at any given time and place, while aspiration largely determines the direction of change in the content of living. Putting it another way, the content of a family's living at any given time is the product of their earlier desires and the cumulative results of their day-by-day effort to attain the things desired. I am not unmindful, of course, of the effect of larger social influences upon both the level and the standard of living of a family at any given time.

An adequate living as a goal for all who are engaged in agriculture in the Southwest might be defined in terms of minimum physical requirements, attainable for the family of the humblest laborer. These requirements would take account of food, shelter (including protection against flies and mosquitoes), drinking water, sanitation, and the cure of diseases. In other words, scientists, technicians, engineers, and farm leaders may define the content of a living which is adequate for health, and might guide agricultural people in its universal attainment, moving from level to level as achievement permits.

The *discovery and nurture of unusual personal ability* comprises an additional goal. This is in turn largely related to the quality of agricultural people, the level and standards of their living, and the security they are able to realize in social and economic organization of effort. More immediately, however, the attainment of this goal depends upon persons and facilities locally available to awaken in farm people their latent personal energies, and to guide their development. This endeavor requires essentially religious or energy-releasing means as well as means which are formative or essentially educational. Agriculture has in the past furnished many of its most energetic and ambitious to other fields and occupations. It has also produced its own leaders. Since there is considerable evidence that leadership in agriculture will increase in importance during the coming years, it is important that agriculture concern itself with their discovery and training.

Agriculture in its relation to other major industries is striving for *equality*. As this goal is realized it will mean that living conditions for workers in agriculture will correspond to those enjoyed by workers of comparable skill and ability in other industries. It will not mean a duplication of urban living in the country but it will mean a wider use of conveniences and facilities which will be common to city and farm, such as hardsurfaced roads, daily newspapers, the radio, public education, public health service, efficient

retail distribution of purchased food and goods, and accessibility to the services of public utilities at equitable rates.

Equality for agriculture will require among other things attention to technological improvements, efficiency of labor, low-cost credit, collective action in purchasing certain essential supplies and in marketing agricultural commodities, and effective organization for other forms of social action.

Beauty of farm and country-side is implied in the foregoing description of goals but should receive separate notice for its importance. One can hardly conceive of an energetic population living in security and comfort on farms, interested in new as well as old things, and pushing forward among other occupational and professional groups, which would not also appreciate and strive for the beauty as well as usefulness. Such a people would conserve natural beauty and construct improvements along lines that are pleasing to the eye. It will depend upon what they want most to accomplish. It is possible, even with other worthy goals clearly defined, to neglect the esthetic in rural life. So beauty for its own sake, let alone its utility, is given separate mention.

In areas of low rainfall this will mean building reservoirs and fringing them with seedlings of tree varieties suited to the environment, while where rainfall is more plentiful it will require flood-control and planned preservation of wood-lots and forest areas. Roads will be built following contours of the land as well as the lines of a land survey. They will lead to places of natural charm as well as to marketing centers. Farm architecture will retain simple lines and the layouts of the farmstead will be attractive because indigenous trees and shrubs will cluster along lanes and fringe yards and pasture lots. Even the conservation of wild life—birds, wild fowl, game, fish—is practically impossible of accomplishment without adding an ineffable element of charm to country life which is suggested by the call of wild geese in the spring or the tracery of a mink's trail on winter snow.

I believe that the farm people of the United States are facing toward the goals I have roughly outlined. Agriculture in the Southwest shares in these aspirations.

Means for the attainment of these goals require special equipment, personnel, mechanisms of procedure and leadership. While these phases of organization cannot here be fully discussed their importance is not under-estimated. It will be sufficient for present purposes to enumerate some of the more important of the means necessary to the attainment of a sound population, dwelling in

security on the land, enjoying an adequate living, industrial equality, opportunity, and beauty in this Region of the Southwest. I shall enumerate them without discussion.

1. Extension of secondary road systems so that every farm family will have an all-weather, year-around road.

2. Provision of elementary schooling through a standard school year for all children from 6 to 14 years of, both Negro and White. This will mean the elimination of illiteracy.

3. Control and elimination of malaria and similar ailments spread by insects and vermin.

4. Large scale control of social disease.

5. Education and demonstration of importance of farm sanitation with respect to water supply, milk, foods and in regard to personal and social cleanliness.

6. Provision of basic elements in the diet of infants and children (and adults if necessary) to eliminate disease due to food deficiency.

7. Education of farm women (including laborer and cropper women) in the more effective use of income and provisions available to them for the care of their families.

8. Reformation of farming systems so as to provide on the home farm essential foods, and adequate shelter for man and beast engaged in agriculture. This will mean tenant-houses that turn rain and shut out mosquitoes. It will mean effective vegetable gardens.

9. Security of tenure for tenants and croppers with provision to compensate the renter for improvements made on the land during the period of his tenure. This will encourage desirable landlord-tenant relations. It will penalize both landlords and tenants who squander their returns from agriculture and it will select for survival those who invest a part of their returns in the improvement of housing and soils as a physical basis for a better living.

10. Collective organization to regulate the flow of farm production supplies in large lots.

12. Sound local banks, close to agricultural people.

13. Farmer-operated associations to provide suitable credit facilities on land, for production purposes, and for agricultural co-operative organizations.

14. General-purpose farmer organizations to promote the welfare and interests of agricultural people in matters of legisla-

tion, taxation, rates for public utilities, public education and government.

15. Public and private support for the care of the aged, widows, the crippled, and the mentally deficient.

16. Land, tools, and materials together with supervision provided for the unemployed in order to restore them to self-support and social status with their neighbors. Supplementary employment in small industries will, in many instances, be necessary.

17. Secondary and higher education for those who desire it, with cultural and vocational training for those who remain in agriculture and for those who plan other careers.

18. Play, drama, pageantry, and music promoted and provided at public and private expense to develop personal talent, unify communities, and cultivate the finer tastes and appreciations of farm people.

19. Improvement in the quality of religious leaders, fewer and stronger local churches, close attention to the essentials of a satisfying life in religious education, and above all the penetration of all programs of effort with religion's essential nature—its power to release human energies.

20. Co-ordination of the aims and activities of larger agencies so that their local impact may contribute to the enrichment of local life and not to its disintegration.

The crux of the matter is that some tangible realization of things hoped for may come to the people in order to give them strength to wrestle with debt, drought, blight, sickness, insecurity, the burden of ignorance, and the limitations of economic achievements inherent in the production of raw food and fibre, and to embolden them for the adventure of new roads ahead.

THE LIFE AND WORKS OF DOCTOR FRANK CARNEY

BY EDWIN J. FOSCUE

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Doctor Frank Carney, late professor of geology and geography at Baylor University, and a member of the Southwestern Social Science Association, died December 13th, 1934, at his home in Waco, Texas. He is survived by his wife, Mrs. Mary Keegan Carney, and their two sons and three daughters.

As a teacher of geography in the Southwest, Doctor Carney's activities date from 1928, but within that brief period of seven years he was the guide and inspiration of geographers of this section. He served the Southwestern Social Science Association recently in two important positions, first as chairman of the Human Geography section at the fifteenth annual meeting at Dallas, March, 1934, and later as a representative to the Southwestern Social Science Association, at the meeting held in Chattanooga, Tennessee, November 8th, just one month before his death. His passing is a great loss to the cause of geography in the Southwest.

His Career in Outline

Doctor Carney was born in Watkins, New York, March 15, 1868, son of Hugh and Esther R. Beahan Carney. His father, although a farmer, was a student of history and international affairs, which undoubtedly influenced the son to study and ultimately engage in teaching as a life work. His preparatory work was done at Starkey Seminary, in Eddytown, New York. After graduating from that institution in 1887 he remained as an instructor in mathematics and history until 1891 when he entered Cornell University. After three years at Cornell he returned to Starkey Seminary as principal. He soon joined the faculty of Keuka Institute, and later became principal of the High School in Ithaca, New York. By attending the summer sessions he completed his requirements for the Bachelor of Arts degree which he received from Cornell in 1895. He served as an assistant in geology at Cornell in 1901, and as an instructor in their Summer School of Geography from 1901 to 1904. This was probably the beginning of his interest in geography as a college subject.

In 1904 he was made professor of geology and geography at Denison University, Granville, Ohio, which position he held until 1917. In 1909 he was awarded the degree of Doctor of Philosophy by Cornell University. During his stay at Denison, Doctor Carney busied himself with research. In that period most of his works were published. He built up the *Bulletin of the Scientific Laboratories of Denison University*, and served as its editor from 1907 to 1917. Under his direction the department of Geology and Geography at Denison became outstanding, as attested by the number of his students who entered the geologic or geographic professions.

During the period 1904-17, while connected with Denison, Doctor Carney taught in the summer schools of numerous Universities. For three summers, 1909-11, he lectured at the University of Virginia, in 1912, at the University of Chicago, and from 1914 to 1916, at Cornell. During the long session of 1912-13 he was acting professor of geology at the University of Michigan, and was offered a professorship of geography at that institution, but declined. During his stay at Denison he served as assistant geologist for the Ohio Geological Survey from 1907 to 1917.

In 1917 Doctor Carney accepted a position as chief geologist in charge of the geological and land departments of the National Refining Company, which terminated his teaching work in Ohio, and ultimately brought him to Texas. The work for this company was done with his characteristic thoroughness and enthusiasm until he severed his connections with that company in 1928.

In spite of his interest in his work for the National Refining Company, Doctor Carney's love of teaching forced him to go back into educational work. In 1928-29 he taught geography at Texas Christian University, and the next year became chairman of the department of Geology and Geography at Baylor University which place he held until his death. At Baylor he revived the department and caused it to grow until it was the largest science department in the institution and was rapidly becoming known throughout the country.

Membership in Scientific Societies

Doctor Carney held membership in the following societies: Geological Society of America; Association of American Geographers (vice-president, 1915); American Association for the Advancement of Science; American Association of Petroleum Geologists; American Institute of Mining and Metallurgical Engineers;

Michigan Academy of Science; Ohio Academy of Science (president, 1909); Seismological Society of America; Society of Economic Paleontologists and Mineralogists; Southwestern Social Science Association (chairman, Human Geography Section, 1934); Texas Academy of Science; Texas Geographic Society; C. L. Herriek Geological Society. He was a member of Phi Gamma Delta, Alpha Delta Tau, Sigma Xi, and was a 32° Mason.

Comments from Some of His Former Students

While a professor at Denison University Doctor Carney had a profound influence upon his students as shown by the many leading geologists and geographers of the country who studied under him. Space will not permit a tabulation of the men who have felt the influence of this great teacher, but the following quotations from letters of four of his students will serve to show the high esteem in which he was held by all.

Mr. Norman Thomas, President of the Society of Economic Paleontologists and Mineralogists writes as follows:

"Doctor Carney was a profound scholar, a great teacher, and a Christian gentleman in every true sense of the word; one who gave inspiration to all who knew him. His friendliness and his honest frankness made him a host of friends throughout this country and all of his students knew him as one to whom they could go for sound advise.—Students remember their professor as one of the really great teachers, for they felt his presence in the classroom and they had eagerly absorbed his spirit and enthusiasm and loyalty. He was a born teacher. Although his courses were known as the hardest and credits were earned with difficulty, his classes always grew from year to year, more because of the personality of the man than the subject."

Dr. Kirtley F. Mather, Professor of Geology, Harvard University, writes:

"During my first two years of undergraduate work at the University of Chicago I had begun to concentrate in geology and had completed two or three courses under Dr. Atwood and Professor Salisbury. When I entered Denison University in the fall of '07, at the beginning of my junior year, I began immediately to serve as laboratory assistant under Dr. Carney, at the same time that I continued my studies in geology under him. In my senior year I was again Dr. Carney's assistant as well as a student in his classes. Thus, although it can not be said that I owe the fact that

I am a geologist to Dr. Carney's influence, it is true that he had a great deal to do with my early experience in the science.

"Some years later, in 1918, following Dr. Carney's resignation from Denison I was appointed to the professorship which was thus made vacant. As a matter of fact, there was an interim of one year between his departure and my arrival.

"My respect for Dr. Carney's ability as a scientist has continued to grow during the years subsequent to my class association with him. In my undergraduate days he was one of the most popular members of the Denison faculty and I shall always be glad that I had the opportunity to study under his instruction. The more mature judgment of later years merely confirms my earlier estimate of his unusual ability. He was not only a good research worker and unusually competent teacher, he was also a thorough gentleman, entirely worthy of the love and respect which he inspired in all who were fortunate enough to be associated with him in any way."

Dr. George B. Cressey, Chairman of the Department of Geology and Geography, Syracuse University writes:

"Dr. Carney was one of those rare personalities, an inspiring teacher with breadth of correlation, and a precise research scholar. Few teachers have built more purpose and precision into their students. From his thirteen years at Denison came seventeen professional geologists or geographers, in addition to a considerable number who have done incidental work in these fields.

"To a remarkable degree, Dr. Frank Carney was gifted with a personality which vividly impressed itself on the lives of those associated with him. His integrity and helpfulness were an inspiration to all who knew him even slightly. Out of his appreciation of the earth and man developed a rich philosophy which made the Cosmos a comfortable place in which to live. Dr. Carney saw the human significance of material things, and those who sat in his classes learned of life through the rocks.

"Through his brilliant teaching and his extensive writing he made the department at Denison one of the best of its size in America."

Dr. Langdon White, Professor of Geography, Western Reserve University writes as follows:

"When I entered Denison University as a freshman in 1916, I took two courses in geology and geography with Dr. Frank Carney, who at that time, was head of the Geology Department.

I took these courses neither because I knew anything about geology or geography, nor because I was interested in them, but solely because during my two years as a student in Doane Academy, which is on the Denison Campus, I had learned from college students that Dr. Carney was the best teacher 'on the hill.' I learned that nearly every student, regardless of his major interest, took at least one course in geology or geography before graduating.

"Dr. Carney was a productive scholar, an inspiring teacher, a fascinating lecturer, and a master in the use of visual materials. I got to know him not only as a teacher, but as a man and a friend. Possibly no one else influenced my life so much. His death is a distinct loss to his friends and to the sciences of geology and geography."

Contributions to Scientific Literature

The years 1901 to 1917, spent largely at Cornell or at Denison, were the most productive in the writings of Doctor Carney. During that time he became deeply interested in glaciation and glacial geography, particularly of the State of Ohio, and published numerous articles on that subject. During that period he also wrote in the fields of economic geography, methods for the teaching of geography, and cartography. Maps were his hobby, and the collection at Baylor at the time of his death, largely his own property, was the best in the southwest. A bibliography of his writings is attached at the end of this paper.

Doctor Carney's connection with the National Refining Company prohibited his writing in his chosen field. This was undoubtedly one of the factors that led him to withdraw from the company, and again engage in teaching and research, so that he could have the time and opportunity for writing.

From 1928 to 1934, while teaching at Texas Christian University and Baylor University, he published little, but spent most of his time teaching his students, and lecturing to various clubs and organizations, where he was constantly in demand. One of his interests lay in the study of prehistoric man in Europe, and his adaptation to environment. While his bibliography carries no paper on that subject, he lectured on it many times.

For the last few summers Doctor Carney has been conducting field trips for his advanced students into Brewster County in West Texas, and has been studying glaciation in the Pennsylvanian beds of that area. His work on that subject was nearing completion and his paper was to be given at the December, 1934, meeting of

the Geological Society of America at Ithaca, New York. His death occurred about two weeks before the meeting. An abstract of his paper was published in the Proceedings of the Society, and the complete paper will doubtless appear in the Bulletin of the Geological Society of America sometime within the near future.

* * * * *

The author of this biographical sketch was not one of the fortunate ones to have had him as a teacher. My acquaintance with Doctor Carney dates from the fall of 1931, and embraces only the short period of three years, but during that time I had numerous contacts with him and because of his friendliness and his personality I felt that I had known him for a much longer period. He was quite active in the organization of the Texas Geographic Society, and in the Human Geography section of the Southwestern Social Science Association in both of which organizations I have taken some part. My last contact with Doctor Carney was less than two weeks before his death. At his request, I lectured before his students at Baylor University, and was during that time entertained in his delightful home in Waco.

By the death of Doctor Frank Carney, I feel that the geographers of the southwest have lost a friend and guide. I believe his loss is greater to us than to those who were fortunate enough to have been among his students.

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BASIS FOR LAND UTILIZATION PROGRAMS*

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During recent years research organizations have devoted more and more thought to the problem of a planned development for agriculture. Limitations of resources in most states, however, have prevented the development of comprehensive planning programs. For years, the United States Department of Agriculture, through the Division of Land Economics, has been studying the potential demands for agricultural products as compared with the potential productivity of American farms. The viewpoint of this program, however, has been relatively broad and did not directly indicate areas where changes in land use appeared advisable. Nevertheless, the contribution of this Division to land planning was very great.

The activities of the Federal Government through both the National Resources Board and the Agricultural Adjustment Administration have resulted in land planning receiving an impetus that has caused the nation to become plan conscious. As a result, considerable thought and discussion have been provoked on this subject. For this reason, it is advisable to consider briefly some of the bases upon which land planning may be developed.

The bases for land utilization programs will vary according to the viewpoint which is entertained in regard to planning. Differences in viewpoint will be found when different basic factors are considered the final measure of desirable land use, and, likewise, methods of achieving the goal of a planned agricultural economy are not always the same. One method of attack lies in effecting changes in the individual farm units so as to result in an aggregate desirable change in the amount of income to agriculture. This viewpoint of indicating changes within a farm unit has been followed very largely by the State Agricultural Experiment Stations and the United States Department of Agriculture in farm management studies.

The second viewpoint for effecting changes in land use attempts the use of external measures through limitations of the

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use of land for crop and livestock production and by the use of tariffs to increase the production of still other farm products. This viewpoint of mandatory action, which by one legislative act, attempts to effect the composition of agricultural output, is not of recent origin. Earlier such action took the form of tariffs for selected farm products. Later, however, the use of land was effected by legislative acts which not only definitely limited the amount of output of a particular product but also carried limitations for the alternative use of this land.

In the case of the viewpoint of either improving farm incomes by starting with the farm as a unit or by seeking the same goal by mandatory acts, planning itself is based on an attempt to improve the well-being of the farm family. The different methods of attack, however, indicate that different bases for planning may be used. Recommendations for a desirable basis for planning will result from an outline of the factors which affect the amount of farm income and a consideration as to whether these factors may be amended in a planning program so as to result in desirable changes.

Social Factors. Briefly the social factors which may be used as a basis for land planning include (1) the relation of individuals to each other, individually and through groups, and the subsequent results in the form of desirable or undesirable changes for the agriculture of the community; and (2) the standard of living which land planners would grant families engaged in agricultural production. This second viewpoint will be considered at this time since the recommended uses of land will be greatly affected by the social viewpoint entertained by the one making the recommendations.

Some land planners assume that agriculture should be considered a method of living which, over a period of years, provides the necessities for subsistence with a greater degree of certainty than is found in other occupations. The position is taken that American farmers should cease to be hopeful of a standard of living which is somewhat comparable to the middle income groups of urban workers. In other words, the farmer should be content with certainty of income in the form of sufficient goods and services to maintain his physical well-being even though he receives few comforts to satisfy his mental or spiritual desires. This is a basis of planning which some people entertain.

Another basis of planning is also found. This second basis of planning assumes that rural families should not be pauperized.

It also assumes that the American farmer, when located on productive land, should be able to earn sufficient income to give him a reasonable amount of comfort above that required for physical health of his family. It assumes that the income to a farm family should be somewhat comparable to the income of a city family which has a similar amount of capital invested and which works about the same number of days per year. This viewpoint appears to have been used in most farm management studies for the last ten to fifteen years. Likewise it appears to be a desirable basis for land planning at the present time.

Physical and Economic Factors. Land planning in the past and probably in the future will be based primarily on the physical and economic factors affecting the type of physical production which can be created from the land under application of human effort to the soil. This, of course, leads to planning in relation to cost, sale price, and thence to amount of return to the farm family.

Under physical factors are included the amount of rainfall and its distribution throughout the year, the relation of temperature to crop and livestock production, the amount of soil fertility, type of topography, and physical characteristics of the soil. Physical factors immediately blend into economic factors in a manner similar to that in which the economic and social factors become interrelated. Location of the land itself, a physical factor, when studied in relation to market outlets, churches and schools gives rise to economic factors which affect land use.

Social factors as they affect community intelligence and ability to work will affect the aggressiveness with which the soil is tilled by the farm family and may also affect the value of the land because of a desirable or undesirable community pattern. Hence, through capitalization of farm land, these social factors will affect the cost of production in a manner similar to variations in physical factors. Interrelation of the physical, economic, and social factors, as affecting land planning, is apparent. Ultimately these three groups of factors can be expected to provide the bases for land planning.

Legislation. From 1933 to 1935, the composition of crop production in the United States was modified by legislative acts probably more than land planning and somewhat academic recommendations could have brought about in several decades. The use of land since 1933 has been affected more by legislation than it has by recommendations of land planners during this period.

Thus, land planners have been confronted with two bases for land use. One deals with the physical, economic, and social factors, which affect the recommendations for land utilization, and the other with legislative acts restricting production of certain crops, and in turn specifying a limited number of alternative uses for the land which had been removed from the production of a particular crop. If the legislative acts are to be given primary importance, then land planning is being directed by congressional action which may or may not be well founded. If the physical, economic, and social factors are considered as the basis, then planners are confronted with the limitations of the use of land resulting from legislative acts. Thus a certain degree of confusion and conflict is inevitable. For these reasons, the recent trend in Federal legislation affecting agriculture and land use should be considered.

The subject of legislation bearing on agricultural production immediately suggests crop limitation, whereas this type is only a more recent development. It should be indicated that Federal legislation designed to limit the acreage of different crops is a negative type of legislation which is still in its infancy, whereas history shows a long record of promotive legislation designed to aid agricultural well-being. A brief review of the attempts of the last fifteen years to provide legislation to affect agriculture will show the trend in thought which has led to the actual limitation of the amount of output of certain farm products. This trend may be suggestive as to the possible course which Federal legislation may take in the future and in turn the extent to which legislation may effect land planning.

At the close of the World War, exports of American farm products were reduced, lower domestic prices were realized, and American farmers were facing a condition similar to the recent depression. The Federal policy at that time took the form of emergency assistance by providing relief to agriculture. The amount of import duties on farm products was increased through the Fordney Emergency Tariff Bill, signed in June, 1922, and by liberalization of credit through reviving the War Reconstruction Finance Corporation for the purpose of financing the exports of agricultural and other products, and for loans to cotton coöperative organizations. Further credit was made available in August, 1921, by the Agricultural Credits Act which broadened the powers of the War Reconstruction Finance Corporation to include loans to rehabilitate agriculture and provided for an extension of the

life of this organization through 1924. In 1923 the Federal Intermediate Credit Act was passed.

After this emergency tariff and credit legislation passed, congressional thought indicated a conviction that prices of farm products were low because the cost of marketing farm products was excessive. A series of acts indicate the thought at this time and included the Capper-Volstead Act, the Packers-Stockyards Act, and the Grains Futures Act of 1921 and 1922. This thought resulted in the establishment of the Division of Coöperative Marketing of the United States Department of Agriculture in 1926 and has appeared in Congress from time to time since. It became apparent that the attempts to lower the cost of distributing farm products were not successful in restoring agricultural prosperity. Tariffs were again used in an attempt to raise the prices of farm products. Duties on wheat were increased 30 to 42 cents per bushel in 1924, while two years later the import duty of butter was raised from 8 to 12 cents per pound.

Finally, however, these attempts to raise prices to farmers were displaced with the desire to control the surplus of farm products. On January 16, 1924, the first surplus bill was introduced into the Senate by McNary and in the House by Haugen. This bill was defeated in the House five months later but marked the start of a type of legislation which has been before Congress throughout the past decade. Legislation designed to limit crop surpluses reached the President in the form of the McNary and Haugen Bills in 1927 and 1928, both of which were vetoed. The Federal Farm Board of 1929 sought to remove crop surpluses by open-market operations and attempted to persuade farmers to reduce the output of crops through educating them on the need of smaller surplus if higher prices were to be forthcoming. Another feature of this act which was of like importance, but which has been less emphasized, was the assistance it offered to coöperative marketing associations. This second feature appears to be a carry-over from the earlier thought that low prices of farm products were due to inefficiency in marketing. However, the establishment of the Federal Farm Board marked a transition from the basis that farm prices were low because of inefficiency in marketing to the idea that prices were low due to surplus production. It is observed, however, that the Federal program of six years ago was considering the surpluses that were created as compared with the present thought to limit crop surpluses before they are actually produced at the farm.

Federal legislation has attempted to limit the surplus of crops at source of production, and it is at this point that land utilization is directly affected. In 1933 the voluntary Plow-up Campaign was adopted. The original 1934 contract was again a voluntary provision for limitation of crop production. This contract, however, was followed by the Bankhead Act, which required a restriction of production on a base period average and is still in effect in 1935. The effect of this program on land use is apparent to those who have either read the contract or have observed agriculture during the past two years.

The trend in Federal legislation in regard to agriculture since 1920 has been, first, to assist farmers during a period of low prices by extensions of credit, second, an attempt to reduce the cost of marketing, third, the removal of surplus crop production, and fourth, the limitation of production as a method of controlling surpluses. The Federal program for assisting farmers has shown several changes in viewpoint since 1920. In the six years from 1929 to 1934 Congress has proved receptive to suggestions for almost revolutionary types of legislation. Land planners are hopeful of continuation of this receptiveness so that more harmony may be effected between legislative acts and desirable long-time land planning. If the Federal program for assisting agriculture were to stop with the present method for control of surpluses at the farm the bases of land utilization will lie very largely in the type of Federal contracts which are offered to the farmers.¹

Conclusions. A comparison of the outcome of planning resulting from Federal legislation with results of research on physical, economic, and social factors shows certain points of common interest. Each basis of planning assumes that the profit motive is still the primary force in directing the activities of farmers. Each program attempts to improve the income of agriculture. At this point, however, different routes are taken.

It may be that proponents of each plan are viewing the present Agricultural Adjustment Administration program as a somewhat temporary measure which will be replaced by a program more

¹The acts of state legislature designed to assist agriculture have been largely of a promotive type, such as improving the legal status of co-operative marketing organization, provisions for agricultural credit corporations, and even underwriting the capital stock of certain credit agencies, as well as other types of assistance. State legislation has been of a promotive rather than of the negative type. State acts will be waived because of their more restricted applications and somewhat indirect bearing of land use in the state.

in keeping with the economic principle of comparative advantage. The earlier discussion of Federal legislation gives some support to this view. Legislation since 1920 has been of a constantly changing nature and appears to have drawn closer and closer to the cause of low prices of farm products in the United States. However, there is still considerable distance to travel to achieve the final results of land planning which are sought at this time.

At this point it should be indicated that the development of land planning in the United States during the last 12 months has probably exceeded the fondest hopes of land planners. The National Resources Board, through its assistance to the states, has crystallized thought on land planning and has collected a large amount of material bearing on the problem. Most states have planning boards as compared with relatively few two years ago. Likewise, the co-operative undertaking which is being started with the Agricultural Adjustment Administration Bureau of Agricultural Economics, and State Agricultural Experiment Stations, will show further interest in a planned development of our agricultural resources. However, an analysis of the "status quo" of planning leads to the inevitable conclusion that Federal legislation restricting the output of crops does not function in keeping with the economic principle of comparative advantage, which has been the basis of approach by most land planners.

Crop restriction provision of the Agricultural Adjustment Administration contracts are possibly a twofold attempt to aid American agriculture. First, as an emergency measure, the surpluses of contract crops have been reduced with the strengthening of the price of these crops. The second objective of the Agricultural Adjustment Administration contracts appears to be the establishment of a parity price for farm products. It is doubtful if the same farm contracts can be used to accomplish both these objectives. A revision of Agricultural Adjustment Administration contracts is essential if Federal legislation affecting land use is to operate in keeping with the more natural factors which result in changes in crop acreage on an individual farm or the general location of crop production.

Two types of Federal legislation are needed. A mandatory provision is needed for the limitation of crop acreage or crop output, such as is now found in the Agricultural Adjustment Administration contracts for use when the price of farm products reaches the low levels of the years of the recent depression. Legislation of this type would probably be inactive after agriculture

recovery had taken place. Nevertheless, it could still be provided in the statutes of the United States as a sort of insurance against the exceedingly low prices received for farm products from 1931 to 1934. Probably few people would criticize this sort of legislation. The problem of such legislation would be to determine the price level at which this program would be abandoned.

The second type of legislation should be found even after recovery has occurred. This should provide a tariff-like benefit for the amount of agricultural products which are domestically consumed. The amount of this differentiation between domestic and foreign prices of farm products should be adjusted in relation to the tariff benefits of domestic manufacturers of goods used by farmers. The source of the payments could be found in the present processing tax or in some substitute measure. The particular method will not be treated in this discussion. This plan should not include acreage restriction provisions but should let expansion take place wherever it might under the prevailing prices. Such legislation would result in coördination of results of legislation affecting land planning and the viewpoint that land planning should be based upon the physical, social, and economic factors, which historically have affected the use to which land would be placed.

So long as the present restrictions of acreage apply to each individual farmer, inequities are inevitable and much high cost production will be forthcoming, whereas areas where low cost production would be possible are prohibited from expanding. If, or when, Federal legislation is amended to make these changes possible harmony will be brought out of the confusion that now results when one considers the bases of land use, from first, the principle of comparative advantage, and second the effect of legislation on land utilization.

DESIGNATING SPECIAL DAYS: AN ABUSE OF THE GUBERNATORIAL PROCLAMATION

BY GEORGE STEPHEN ROCHE

Duquesne University

Several governors have called attention to the abuse of one of the functions of the governor as the ceremonial head of the state: the issuance of proclamations designating special days, or weeks, in order to emphasize some noteworthy event or movement. Governor Richardson of California, writing in 1927, stated that,

A great abuse has grown up in California in the issuing of unauthorized proclamations by officials. I would suggest that the statute be amended so as to prohibit city, county, and state officials from issuing any proclamations unwarranted by law. A proclamation should be a solemn affair issued by legal authority and for the public benefit. To issue proclamations declaring certain days in the interest of animals, fruits and vegetables, or for special propaganda is to bring the law into disrespect and make the issuers of such proclamations ridiculous. There have been no proclamations issued by me setting apart "Onion Day," "Horseradish Day," "Cauliflower Day," "Jack Rabbit Day," or "Squander your money Day."¹

Again, Governor Talmadge of Georgia stated that,

I found, after being in office a few months, that there was some [*sic*] requests for special holidays and weeks so constantly that it seemed as if it were a kind of racket. I made a rule then to issue proclamations, except in rare instances, only on official business.²

Governor Meier of Oregon felt called upon to establish a rule that he would issue proclamations only to call attention to days already designated by the president.³

¹California Senate. *Journal*, 47th Session (1927), p. 23.

²New York *Times*, Oct. 27, 1935.

³Oral statement of B. Walton, secretary to Governor Meier. The governor ascertained what days had already been designated from the newspapers.

How much truth is there to the allegations that special days constitute a "racket," or an abuse of the gubernatorial position?

One source of information on the subject is to be found in the proclamations actually issued by governors. The proclamation, the most seldom form in which the executive of a state can take public action, has always been the medium through which were announced days of "public fast, thanksgiving, and holiday," but until about 1905 the number of special days designated by the several governors was small. Since that time an ever-increasing number of special days or weeks has been named in most states, with a proportional decrease in the public significance of the designated days. The number of proclamations issued, as well as the proportion which deal with unimportant special days or weeks varies in accordance with the personality of each governor and with the exigencies of his administration. The two extremes of policy in regard to the issuing of proclamations are illustrated in these calendars of the proclamations issued by Governors Buck of Delaware and Phillips of Arizona in the year 1929.

*Delaware, 1929*⁴

- | | | |
|------|----|--|
| Jan. | 15 | Notice of delinquent corporation taxes |
| June | 3 | Exhortation to have automobiles inspected in order to decrease the number of accidents |
| Nov. | 4 | Exhortation to join the Red Cross |
| | 15 | Designating Thanksgiving, a legal holiday |

*Arizona, 1929*⁵

- | | | |
|-------|----|--------------------------------------|
| Jan. | 5 | Raising a previously laid quarantine |
| | 9 | Calling a special election |
| | 21 | Proclaiming a quarantine |
| | 22 | Designating Arbor Day |
| | 22 | Designating Law-and-Order Sunday |
| | 23 | Designating Boy Scout Week |
| Feb. | 5 | Designating Narcotics Education Week |
| Mar. | 19 | Designating Greenway Field Day |
| | 19 | Designating Bird Day |
| April | 2 | Designating Music Week |
| | 2 | Designating Child Health Day |
| | 15 | Designating Belgian Guard Day |
| | 22 | Designating Spanish War Day |
| | 24 | Designating Hearing Week |

⁴*Delaware Laws*, vols. 36, 37.

⁵*Proclamations iii* (MS in office of secretary of state).

	29	Designating Boys' Week
May	7	Designating Mothers' Day
	9	Designating Poppy Day
	14	Posting reward for apprehending a criminal
	28	Designating Flag Day
July	2	Making appropriation from emergency fund
Aug.	17	Posting reward for apprehending a criminal
	24	Making appropriation from emergency fund
	24	<i>Ibid.</i>
Sep.	10	Designating Constitution Day
Oct.	1	Designating Fire Prevention Week
	16	Designating day to celebrate 50th anniversary of invention of electric light
	22	Designating Roosevelt Day
	24	Posting reward for apprehending a criminal
	26	Designating Forget-me-not Day
	29	Designating American Education Week
	31	Designating Parent-Teachers' Day
Nov.	6	Designating half-holiday for state fair
	6	Designating Armistice Day, a legal holiday
	22	Designating Thanksgiving, a legal holiday

The four proclamations from Delaware indicate no abuse of the proclamation, but the thirty-four from Arizona, twenty-five of which designate holidays, special days, or weeks, etc., show that criticism of the uses to which the proclamation has been put may be warranted. A large proportion of the days and weeks designated are unimportant while some, in all likelihood, benefitted only the group requesting them. Neighbors' days, Apple weeks, Ship by Truck weeks, etc., which are found in great profusion in some states, seem to further the public weal but little, though they may redound to individual benefit. Analysis of lists of proclamations from several states indicates that Arizona was not exceptional in the number and kind of proclamations issued. Comparison of these lists for the same years provokes many questions. Why—to take but one example—do we find several governors designating (in 1916 and, again, in 1917) a "Western Consumers' Week?" Who recommended such action? What public benefit might be expected from it? Did an ulterior motive lie behind the suggestion that such a week be announced? Public records can provoke such questions but, though they can imply, they cannot give the answers to them with certainty.

The requests made to the governors for such proclamations are more informative, but these are seldom available since they are fugitive in their nature and seldom preserved. At least one collection of letters requesting the designation of special days exists, however. It consists of nineteen communications to Governor Lister of Washington (1913-19), all dated 1917. A summary of this correspondence follows.⁶

- (1) Jan. 14 from Collins Publicity Service for Financial Institutions (Philadelphia), requesting the designation of Thrift Day. [not granted]
- (2) 17 from the same, following up previous letter.
- (3) 19 from National Child Labor Committee, requesting the designation of Child Labor Day. [not granted]
- (4) Feb. 28 from *New West Magazine* (Salt Lake City), requesting the designation of Western Consumers' Week, enclosing sample proclamations, copies of magazine reproducing proclamations of previous year, etc. [granted]
- (5) 28 from Washington State Federation of Women's Clubs, requesting designation of Arbor and Bird Day. [granted]
- (6) 28 from *The Farm Journal* (Philadelphia), requesting the designation of Bird Day, in the name of the readers of its juvenile column, "The Liberty Bell Bird Club." [granted]
- (7) Mar. 29 from Tipi Order of America, requesting designation of American Indian Day. [not granted]
- (8) 31 from Mrs. J. R. Nichols (affiliation not determined), requesting designation of Be Kind to Animals Week. [statement issued, but no proclamation]
- (9) Apr. 3 from New York Board of Trade and Transportation, requesting a proclamation asking all to wear a small American flag in the lapel. [not granted]

⁶Washington State Archives (Olympia), box G-3, file "*proclamations*." The completeness of this file is unknown. Notations of granting or refusal of requests is based on calendar of "proclamations" compiled by the author (MS). Since proclamations are not carefully preserved it is impossible to secure a reliable list. Notation "not granted" is tentative.

- (10) 11 from Washington State Federation of Women's Clubs, requesting designation of Baby Week. [not granted]
- (11) 17 from National Board of Fire Underwriters, requesting designation of Clean Up Week. [not granted]
- (12) May 11 from National School and Camp Association [an association fostering military-school education], requesting that the Memorial Day proclamation include a request for a one minute pause in honor of the war dead.
- (13) 12 from International Sunday School Association (Chicago), requesting the designation of Patriotic Sunday. [not granted]
- (14) June 7 from Western Washington Sunday School Association, requesting the same as no. 13. [not granted]
- (15) July 21 from Seattle Chamber of Commerce, requesting the designation of Made in Washington Week. [granted]
- (16) Aug. 30 from National Board of Fire Underwriters, requesting designation of Fire Prevention Week. [granted]
- (17) 30 from Klickitat White Pine Co., requesting the governor to exercise his statutory power to close the hunting season in Klickitat County because of fire hazard. [apparently not granted; proclamation dated Aug. 29, suspending the season for upland birds, may have taken care of the problem]
- (18) Oct. 15 telegram from Wm. G. McAdoo, Secretary of the Treasury, requesting designation of Liberty Day. [granted]
- (19) 16 from First Methodist Episcopal Church of Seattle, requesting designation of Go to Sunday School Day. [not granted]

This correspondence shows that in addition to legitimate requests for gubernatorial proclamations which would obviously further the public welfare (see, nos. 16, 17, 18) many requests are made for proclamations which are of little importance (see, nos. 8, 10, 12, 13, 14, 15, 19), and a considerable number are made

primarily for the advancement of private interests (see, nos. 1, 2, 4, 6, 7) which do not need nor merit public support. It will hardly be questioned that the state should not put itself out to lend support to the circulation or advertising campaigns of magazines (see, nos. 4 and 6). We can safely characterize an attempt to have it do so as an abuse.

THE MEDICAL FUTURE OF THE NORTH AMERICAN NEGRO

BY J. THORNWELL WITHERSPOON

Indianapolis, Indiana

Centuries of bondage and servitude of any race naturally results in inferior intellectual, moral, social and economic weaknesses; these qualifications tend to give the North American negro an attitude of inferiority, and for many years to come destine him to furnish a large contingent of the indigent, dependent, and defective population in the South. In consequence, to those of us who practice medicine in Southern states, the medical problems presented by the negro as a race are of immediate and practical interest and importance.

In the United States the history of the negro dates back to August 1619, at which time a Dutch ship in the James River landed a cargo of slaves in the colony of Virginia. From 1619 to the beginning of the American Revolution more than 300,000 African slaves were brought into the colonies. By the beginning of the Civil War this slave population had increased to 4,000,000, while at the present time, 316 years after their introduction to this country, the black and mixed (mulatto) population has reached the astounding figures of 12,000,000, roughly one tenth of the total population of this country.

The slave traffic to the New World drew from the diversity of tribes along the West African coast, and in consequence a great variety of negro types was introduced into the American colonies. These types have gradually fused, so that the present typical American negro is a truly composite type which has incorporated in it all the generic characteristics of the West African tribes. At present there remain comparatively few of the pure black types, since according to the 1928 census one-fifth of all American negroes exhibit some strain of white or Aryan blood. Yet, to those of us who are not ethnologists, the present American negro exhibits overwhelmingly the characteristics of the Guinea (Congo, Louisiana) type, that is, black skin, woolly hair, thick lips, a broad flat nose, prognathous jaws, a narrow and receding forehead, a slender waist, high hips, broad and massive feet, which are rounded at the bottom. The two other pure negro strains that are occasionally

seen are the Yolloffs, characterized by wooly hair, jet-black skin, a fine form and strictly Euroepan features; and the Caffres, who exhibit wooly hair, a blackish brown complexion and have both fine features and form.

The most important modifying influence on the preesnt American negro is the effect of the infusion of white or Aryan blood into the original pure black type. What this influence has been is a difficult question to answer, but some information is derived from Quatrefages, who, in the "Human Species" when translated into less technical phraseology, states that when the disturbing factors, or the caues of disease or injury, act upon a fundamental element, the same causes will produce fundamentally similar effects; when, on the contrary, this action is exercised upon the acquired element of a race, the same causes will produce different effects.

The modifying influence of blood infusion is proportional to the amount of blood of either race that enters into the general composition of the individual. It may be generally stated that the mulatto offspring of typical black or white parents usually exhibits the externally recognizable characteristics of both races in nearly equal proportions. That the modifying influence of mixed blood is even more profound than external appearances indicate is an accepted fact, and it is independent of the parental traits. Almost unanimously the general clinical impression is that the mulatto, the mixture of negro and Aryan blood, and especially those of Anglo-Saxon crossing, have not the strength and endurance of either of the pure races. It is certain that they are much more liable to the so-called hereditary diseases, tuberculosis, and syphilis. When these mulattoes marry among themselves the second generation is generally still more feeble, and possibly in a few generations this mixed strain would die out completely, because of sterility and lowered resistance to infection and disease, unless reinforced by the stronger blood of the pure races.

In intellect the mulatto is certainly superior to the negro, but it is doubtful if he ever attains even the mean between the two races; in other words the white blood probably loses more than the negro gains by the admixture.

The change of environment from the African tropical regions to the temperate climate of North America, together with the transition from savage to civilized surroundings, produced marked physical and constitutional changes in the Negro. One of the

first changes effected was the gradual elimination of certain diseases which were peculiar to Africa and which were imported by the first slaves to this country. The best known of these diseases, yaws, African sleeping sickness, and elephantiasis have practically disappeared from this country, whereas the almost absolute immunity of the negro to malaria, yellow fever, scarlet fever, diphtheria, gastro-intestinal diseases, nervous disorders and gout—definite evidence of acquired racial differentiation—has been completely modified within 300 years, until at present the negro is almost as susceptible to these diseases as is his white brother. But the influence of environment and forced cohabitation with the white race is nowhere better exhibited than in the frightful tribute the colored race has to pay to the great pests of Aryan civilization; tuberculosis, syphilis and cancer. In short the general comparative immunity of the negro to certain diseases in the earlier periods of this country's history has been impaired by his long residence in a new habitat, and now cancer, tuberculosis, and syphilis, at one time practically unknown to this race, are exerting a deteriorating influence upon the physical stamina of the negro, who is possibly inadequately prepared for it. Today the negro is not only sharing the physical tribulations of the white race, but is, in reality developing hitherto unknown morbid predispositions to certain diseases that affect the white race, and a tendency to exhibit loss of specific racial immunity to pathological peculiarities which it acquired during the original process of race differentiation in Africa. These diseases, more fatal to the negro than to the white, appear to be increasing among them, so that it is a serious question whether the intellectual progress of the negro under the white man's tutelage is not being neutralized by the loss of racial resistance to white man's diseases.

The North American negro of today is different in many respects from his original African ancestors and from his uncivilized brothers on the West African Coast. A residence of over 300 years in our Southern states, in contact with the white man's civilization, has produced a marked change in his mental, physical, moral, social and economic organization. This change, due in part to environment, has been influenced especially by miscegenation with the white race. In consequence, from a medical viewpoint, absolute specific African diseases have practically ceased to exist formerly displayed against the diseases of the Aryan civilization in the American negro of today, and the absolute immunity he

has disappeared. The American negro of today differs from the white man, ethnically speaking, simply in relative predisposition to, or immunity from the various diseases that prevail in this country, but his general liability to the common diseases of this country is rapidly increasing.

BOOK REVIEWS

Edited by O. DOUGLAS WEEKS

The University of Texas

Swisher, Carl Brent, *Roger B. Taney*. (New York: The Macmillan Company, 1935, pp. 608)

A much misunderstood and misrepresented jurist and statesman was Roger Brooke Taney. Because of the savage attacks made upon him by his critics and political enemies, the prevailing impression is that he was a narrow States' Rights judge and a partisan of the Jacksonian school of politics. Historians in general, without taking the pains to make a truth-seeking investigation, have nonchalantly accepted the Whig account of the Bank War of the Jackson administration and the radical abolition view of the Dred Scott decision. It is indeed refreshing to find at this late period of time historians and biographers who are responsive to the truth and desirous of doing justice to the character and public services of the great Marylander. Taken as a whole, Professor Swisher's *Roger B. Taney* mirrors quite well the great jurist as he really lived and acted.

In this biographical history of a most interesting period in American annals, Professor Swisher vividly presents Taney's early social heritage and training, his experiences in the early political contests in Maryland, the forces at work culminating in the demise of the Federalist party, his growing conceptions of human welfare and the rights of the masses of the people, his abandonment of a party whose most outstanding leaders cast upon it the stigma of disloyalty in time of war, his alignment with the party policies and political principles of Jacksonian Democracy, his fight to the bitter end in the removal of the Government deposits from the Bank of the United States, the condign punishment visited upon him twice through senatorial rejections at the instigation of bank henchmen, his final elevation to the chief justiceship of the United States Supreme Court, the changing political events because of the slavery abolition movement, the politics of the Dred Scott Case, and the nullification heresies involved in the case of *Ableman v. Booth*, as well as the closing scenes of a somewhat tempest-tossed life in the midst of internecine strife and carnage. Happily the author of *Roger B. Taney* has brought to light a vast deal of information hitherto unknown to historians and biographers. In its tenor and effect the work is an impartial and sympathetic appreciation of a great jurist and statesman, whose private life was of the highest purity and whose public acts were of the sublimest rectitude.

Quite clearly does Professor Swisher show the better elements in the heart and character of Mr. Chief Justice Taney. It is certain that Taney was hostile to making the machinery of the National Government an instrumentality of sordid interests. In the chapters relating to the famous Dred Scott Case Taney is shown in a far more favorable light than most political annalists have been wont to do. Taney's breadth of mind is revealed in the sorrow which he expressed as the spokesman of the court because of the death of Mr. Justice Story, with whom there was much clashing over the interpretation of constitutional questions. The exalted tolerance of Taney is set forth in lauding the memories of Clay, Webster, and Sergeant, there being not the slightest trace or survival of the old struggles and rivalries between him and them.

Professor Swisher's *Roger B. Taney* is a work of such high merit that the reader or reviewer is loath to suggest wherein improvement in content might have been made. Since it is a seeming paradox in speaking of the nationalism of Taney, the author let pass a superb opportunity to refute the common error that Taney was steeped in the doctrine of particularism. Fortunately, the many court opinions of the great Chief Justice teem with a rich and robust nationalism. His devotion to the authority of the central government stands out conspicuously in the following cases which are not mentioned by Professor Swisher: *Bronson v. Kinzie*, in which was stoutly maintained the constitutional guarantee against State legislation which had the effect of impairing the obligation of private contracts; *Searight v. Stokes* and kindred cases, which specifically held that a State tax on a federal agency was void; *Kennedy v. Chambers*, a Texas case, which held that an agreement made by citizens of the United States with the representatives of a revolting section of another nation in derogation of a former treaty of limits and amity was void and unenforceable in the courts of the United States; *Daniel Dobbins v. the Commissioners of Erie County, Pennsylvania*, which heavily pronounced against the imposition of a State law which provided a rating of Federal as well as State and local offices for the purpose of taxation; *Holmes v. Jennison*, a Vermont case, in which it was declared that the State had no power to deliver a fugitive from justice to a foreign nation, the power being decidedly within the purview of the National Government; and *Florida v. Georgia*, in which national authority was expeditiously asserted and supported by the intervention of the United States in the boundary suit between the two litigating States. An extended treatise on each of these cases would be a surprising revelation to those who have only known Taney, the Chief Justice of the United States Supreme Court, through the malevolence of his enemies. But Professor Swisher did give a masterly presentation of Taney's nationalism in the famous companion cases of *Ableman v. Booth* and the *United States v. Booth*. But since these cases followed closely after the Dred Scott decision, it is presumed that Taney was smarting under the vindictive criticism of partisan abolitionists and was merely attempting to retrieve himself in public esteem when he declared the nullifying acts of the State of Wisconsin as "nothing less than lawless violence." It is to be regretted that so many scholars do not know that Taney sincerely and consistently avowed and exalted national authority from the very beginning of his career as Chief Justice.

Because of the doctrines enunciated in his leading court opinions, Mr. Chief Justice Marshall is universally known as the great expounder of the Constitution. In this respect Mr. Chief Justice Taney is entitled to the same high honor and tribute. A careful study of the court opinions of Taney leads to the inevitable conclusion that he was the peer of Marshall in making the Constitution a living instrument that could be readily accommodated to changing social and economic conditions in a seething and pulsating world. In the *Genesee Chief Case* Taney materially modified the old construction and definition of the extent of admiralty and maritime jurisdiction. Taney conceded that the decisions restricting such jurisdiction to the tidewater in both England and the American colonies were sound and reasonable. In the *Genesee Chief Case* it was noted that there was no tide in the lakes and their connecting streams. Taney, in harmonizing the principles of law and the conditions of physical geography, laid down the doctrine that the admiralty and maritime jurisdiction of the United States courts extended to all inland waters that were navigable though distantly removed from the ebb and flow of the tide. In this case Taney clearly made a timely contribution to

American constitutional construction. In the same connection was also announced a sound nationalism of a brand not known to Marshall and Story. The opinion in this case raised Taney to the front rank as an expounder of the Constitution.

Doubtless the limitation of space placed upon Professor Swisher by his publishers is a sufficient explanation of the scant attention given to Taney as a virile nationalist and bold expounder of constitutional law. Out of the great abundance of subject matter at his command the author was confronted with the insuperable task of selection and elimination. The great contribution to juristic history in this work will likely inspire a profounder interest in the life and public services of Roger B. Taney. The way has been paved for some other scholar in the not distant future to produce a life of Taney as comprehensive and monumental as Beveridge's *Life of John Marshall*. Assuredly the time is at hand for the ability and virtues of the Maryland jurist to be extolled as highly as those of the great Virginia Federalist.

CLAUDE V. HALL

East Texas State Teachers College

Webb, Walter Prescott, *The Texas Rangers: A Century of Frontier Defense*. (New York and Boston: Houghton Mifflin Co., 1935, pp. xvi, 584)

The Texas Rangers have played the rôle of heroes in many a blood and thunder story, but until now they have been given little more than a passing word by the historian. In this, the first real history of the Texas Rangers, Professor Webb has made every effort to distinguish between fact and fiction. In this case the facts are of such a nature that there is little need of resorting to fiction.

Texas has served as the battleground of three races: Indian, Mexican and American. The Ranger represented law and order in struggles with Indian warrior, Mexican bandit, and American desperado. The rules of the game were such that the Ranger had to be a brave, and at times a spectacular, gun fighter. The successful Ranger was a man who could "ride like a Mexican, trail like an Indian, shoot like a Tennessean, and fight like a devil." It is recorded that no "Texas Ranger ever fanned a hammer when he was serious, or made a hip shot if he had time to catch a sight. The real Ranger has been a very quiet, deliberate, gentle person who could gaze calmly into the eye of a murderer, divine his thoughts, and anticipate his action, a man who could ride straight up to death." It is also recorded that Rangers have delivered many an outlaw within the "jail door or the cemetery gate."

This study tells the story of the Rangers from the somewhat nebulous origin in the period before the Texas Revolution to the legislative act of 1935 combining the Rangers and the Highway Patrol in a Department of Public Safety.

Respect for the organization grows as we follow its history step by step. Created for the purpose of protecting the frontier, it served that purpose well so long as there was a frontier. Both Indian warrior and Mexican bandit gained a healthy respect for these officers who knew no fear, and whose traditions were established under such men as Captain John C. Hays, Captain L. H. McNelly and Major John B. Jones. Since the passing of the Indian and the frontier the Rangers have helped guard the international boundary and have helped enforce laws which local officials could not or would not enforce. In addition, they have policed areas where the lawless element was gaining the upper hand.

Perhaps the most famous bad men taken into camp by the Rangers were John Wesley Hardin and Sam Bass. It should be remembered in this connection that

it was a one time Ranger, Captain Frank Hamer, who planned the trap in which was written the last sentence in the careers of Clyde Barrow and Bonnie Parker.

One of the most interesting chapters is that in which the author reconciles the seemingly contradictory policies of Sam Houston during his term as Governor of Texas by fitting all of them into one grand scheme. The scheme was for Houston to invade Mexico at the head of 10,000 Rangers and establish a protectorate. The Americans, turning their attentions to this new field of expansion, would forget the slavery controversy—and perhaps reward Houston with the presidency.

The study has been made with great care, and the style is most pleasing. The reader will be willing to concede that Professor Webb realized his desire to capture something of the spirit as well as the facts of an institution. The study is of less historical significance than *The Great Plains*, but will probably have a greater popular appeal. The chief criticism is one of space, and not of style; there are thousands of interesting events which could not be included in a one volume history.

It is to be hoped the author is in error in predicting that combining with the Highway Patrol in the Department of Public Safety will mean taps for the Texas Ranger.

RALPH W. STEEN

Agricultural and Mechanical College of Texas

Meissner, Otto, and Kaisenberg, Georg, *Staats—und Verwaltungsrecht im dritten Reich*. (Berlin: Verlag für Sozialpolitik, Wirtschaft und Statistik, 1935, pp. xvi, 357)

With a challenging red cover, which smacks of the *Hakenkreuz*, written by the State Secretary and Chief of the Präsidiakanzlei in collaboration with a member of the *Bundest für das Heimatwesen*, and released on May 1, 1935, the third national holiday commemorating the "burial of internal dissension and the rebirth of German honor", this volume would be expected to follow the channels carved out by official Nazi dogmas. Fortunately, however, the book avoids an over-emphasis upon theory and ideology and limits itself largely to a description of the changes which have been made in the political and particularly the administrative structure down to the present. Following a section which deals briefly with the "Foundation of the Third Reich", the remainder of the work is divided into parts corresponding to those which Carl Schmitt's *Staat, Bewegung, Volk* would suggest. The *Bewegung* allows for a discussion of the Party; the "Apparatus of the State," or the State as Hitler chooses to call the "Apparatus of the Leader," subsumes a consideration of the formal political structure and the execution of the state's will. The latter of these sections, incorporating the bulk of the volume, deals with the administrative agencies, the administrative functions, the corporations of public law (church, municipalities, and the *Stände*) and judicial administration. The final division is devoted to the Folk, in which special attention is accorded to citizenship, the liberal professions, the yeoman, the artisan, and the laborer.

The critically inclined would find some justification for considering the use of the plebiscite by the first and third Napoleon along with a discussion of the device in terms of its early Germanic origins and use in German cantons in Switzerland (pp. 93-94). All historians of modern Germany would not agree that Arts. 17 and 18 of the Weimar Constitution represented purely an outward

expression of the feeling for national unity (p. 20). In so far as I know, there have never been definite instruments and criteria discovered to measure the degree of "the spirit of unity", but we need not be an authority in this tenuous field in order to point to Arts. 17 and 18 affecting the *länder* as being, among other things, indicative. Chapter xxx (pp. 265-268) on the *Stände* would find a more sympathetic reader in Othmar Spann, despite the rejection of his ideas in official quarters, than it would have had in Max Weber. The discussion is indicative of the generalized consideration in Germany on this matter, but, if it contains clarity, it is clarity of a type which would find a more facile explanation in the German Labor Front than in the Ministry of Economy or the *Reichsstand der deutschen Industrie*. It would appear that the Labor Front, whose relationship to the former trade unions and whose increasing rôle in connection with the administration of the labor laws is referred to but not properly emphasized, is deserving of more than a brief attention (pp. 327-330) in a book with the above mentioned title, when some twelve pages (pp. 53-64) are devoted to a chapter including such matters as national symbols, national and local flags, hymns, the German greeting, titles, honors, and national holidays.

On the whole the material is well arranged, the presentation is largely factual and the book is well indexed. The consideration of the "new constitution" in the light of the changes in the Weimar Constitution will dispel some of the misconceptions about the continued application of the "non-fundamental" provisions of the Weimar Constitution under the Nazi régime. It is curious, but understandable, that a volume which deals largely with administrative organization and law, and which contains in the text many references to legislation and decrees should omit any consideration of the decisions of the courts. Certainly Walter Jellinek's *Verwaltungsrecht*, written in an earlier day, and a more comprehensive and pretentious work, to be sure, looks interesting by way of comparison. Evaluated roughly in the light of a text book, however, *Staats- und Verwaltungsrecht im dritten Reich* will be useful to any student who wishes an official exposé of and a short cut through the maze of structural and administrative changes in Germany since 1933.

TAYLOR COLE.

Duke University

Gosnell, Harold F., *Negro Politicians: The Rise of Negro Politics in Chicago*, with an introduction by Robert E. Park. (Chicago: The University of Chicago Press, 1935, pp. xxv, 404)

Professor Gosnell's *Negro Politicians* is as excellent a contribution in Sociology as it is in Political Science. The meticulous scholarship reveals the author at his best. His recent work is better than his illuminating *Boss Platt and His New York Machine*. The twenty-one tables and two maps show workmanship as creditable as that of his studies on voting. They are clear, simple, informative—characteristic of a Gosnell article or book. The presentation is direct, compact, and readable.

The opening chapter is an historical treatment of the Negro in American politics; it is followed by a succinct analysis of the "Black Belt". Quite appropriate to Negro politics in Chicago is a detailed treatment of Mayor Thompson's leadership, the "Second Lincoln". The extremes of Negro sentiment concern-

ing Thompson are to be seen in the following quotations. "Truth, courage, consecration, ideas of right, ideas of justice, let there be right, righteousness. Let it come to earth. Call it William Hale Thompson." "They [the Thompson leaders] have turned over the Negro communities of Chicago to the vice lords, policy kings, bootleggers and racketeers, and have foisted upon their people crooked political leaders who have given the city, county and state the worst administrations in all the history of Illinois." The favorable comment was from a Negro preacher. The condemnation was from a Negro weekly newspaper.

Chapters four to eight describe racial candidates for office, the Negro political machine, and the part of Underworld politics as it involved the colored citizenry. Separate chapters are devoted to County Commissioner Edward H. Wright and Congressman Oscar DePriest. There follow chapters in which Negroes in public service are grouped under the classifications of appointive office holders, Civil Service workers, policeman, teachers, and postal employees. Chapter fifteen treats of Negroes and Communism. The last chapter is entitled "Summary: Negroes as a Political Power". Finally the book has eight pages devoted to bibliography and fourteen to index.

Interpretations in keeping with the material set forth include far too many points for enumeration here. Among these are such ideas as follow. The Negro in public office, whether elected or appointed, conspicuous or minor, is a representative of eleven millions of Negroes in America; upon his good record depend the welfare and the advancement of the race. Efficient Negroes were retained by successive Republican and Democratic regimes. The best and the worst are had among Negroes in public employment. Negroes have secured their racial quota of public positions (about seven per cent of the population in Chicago is Negro, 6.4% of the public servants), but the greatest portion of such jobs fall in such menial classes as janitors and common labor. In spite of occasional racial antagonism, however, Negroes have advanced into moderately conspicuous places—the legal department of the city, the public school system, the police department, the Civil Service, and into purely political posts such as county commissioner, city council, state legislature, and national Congress. Where Negroes have been most favorably received and treated has been in the Library system and in the Post Office.

Some of the most progressive Negroes appreciate the opportunities for adult education for their race in the broad program sponsored by the Roosevelt administration. One regrets that the Civil Works Educational Service and the Emergency Educational Program begun in 1933 and in operation for more than a year prior to the completion of this book are not touched upon; yet one must not ask for a study of such a new undertaking in the light of the admirable work accomplished in the fields to which Professor Gosnell's exhaustive research has been directed.

Tabular proof of a greater shift to the Democratic party in 1933-1935 of Negroes living in the highest rental areas than in the lowest is advanced to discount the charge that relief is the cause of an increased Democratic vote among the colored people of Chicago. While this seems to be a sufficient statement in the mind of the author one may question if relief allotments for Negroes do not influence the attitudes of the more well-to-do members of the race. Huge relief sums received by indigent Negroes mean a financial gain to their own tradesmen and professional men. Hence the higher classes of Negroes are shrewdly supporting the political party whose program seeks to benefit the underprivileged.

A telling cause of Negro defection from the Republican party in the past three years is the desire to be on the winning side. This factor is emphasized by Mr. Gosnell. He likewise points out the effort of Negroes to enter party politics according to their potential influence upon local movements throughout the nation. Negroes have learned political bargaining, and with their pride in the exercise of the franchise and their enthusiasm for a cause beneficial to Negro interests, their vote will continue to be cast for the party most favorable to themselves. A new generation of Negroes born in Chicago are little affected by the prejudices of their elders who migrated northward.

The author's treatment is sympathetic yet unbiased.

SPENCER D. ALBRIGHT

University of Arkansas

Bernheim, Alfred S., *The Security Markets*. (New York: Twentieth Century Fund, Inc., 1935, pp. 855)

This volume, published by the Twentieth Century Fund, Inc., in July, 1935, presents the full text of an exhaustive analysis of the security markets conducted by a research staff of some thirty economists under the direction of Alfred S. Bernheim. This project, financed by the Fund, was undertaken prior to 1934 with a view to recommending a program of government regulation for the security exchanges. A brief summary of the findings and recommendations of the research staff was published in 1934 by the D. Appleton-Century Company under the title *Stock Market Control*.

The study was inaugurated undoubtedly with the expectation that the conclusions arrived at would be of use in formulating the impending federal legislation regulating the stock exchanges. The enactment of the Security Exchange and Control Act on June 6, 1934, anticipated the completion of the study and largely impaired its utility in shaping the regulatory law. Nevertheless, it is interesting to note that many of the recommendations made in this volume had already been incorporated in the final draft of the Security Exchange and Control Act.

Although the general objective of the book is to discover and recommend means of correcting defects in the operation of American security markets, yet the approach to the problem apparently has been from an unbiased viewpoint. The text of the volume is presented in five sections. Part one is devoted to an exposition of the theoretical rôle which the stock exchanges should play in a capitalistic society. Part two is concerned with appraising the relationship between the operation of the security markets and the raising of new capital funds for industry, the demand for commercial bank credit, and the general level of business activity.

Part three, occupying about half of the volume, presents a brief description of the organized and open security markets in the United States, and describes in some detail several of the methods used in trading securities. Separate chapters are devoted to margin buying, short selling, the work of the specialist, and the manipulation of security prices. Part four describes the information available to the speculator or investor in securities, and the various sources supplying this information.

Two brief chapters are included in part five, the first summarizing the recommendations as to government regulation and the second outlining the provisions of the Security Exchange and Control Act. Fourteen specific recommen-

dations are listed, among the more important of which are the following: Federal licensing and regulation of security exchanges and of over-the-counter markets; Federal incorporation of all corporations engaged in interstate commerce; uniform State incorporation laws for corporations engaged in intra-state commerce; establishment of minimum accounting and reporting standards for corporations; separation of security brokerage business from the business of dealing in securities; establishment of higher qualifications for customers' men; control of margin buying by limiting speculative credit; separation of trader and broker functions in respect to specialists; full publicity on all pool activities; and State licensing of investment counsels.

The Security Markets represents a real contribution to existing knowledge of the stock exchanges. The book contains an enormous amount of factual information, much of it hitherto unpublished. An exceedingly valuable feature of the volume is the inclusion of thirty-five appendices presenting a mass of source material and supporting data. Because of its peculiar objective, the book is not well adapted for use as a classroom text, but it is extremely valuable as a reference work in the field of security investment and speculation.

JAMES C. DOLLEY

The University of Texas

Riker, T. W., *A Short History of Modern Europe*. (New York: The Macmillan Company, 1935, pp. xiii, 890)

The rise and development of civilization in Modern Europe is a topic of much interest to people seeking the truth on the background that gave rise to our own American political, social, economic, and religious institutions. Many volumes that have been written on this subject have followed a general pattern, covering about the same material and using the same style of technique. The book at hand is a pioneer in technique and style, giving exhaustive information in chronological order and using a style of writing that should please the most severe critic.

Professor Riker's inclination and capacity to regard public questions in their scientific aspect are already familiar to many readers of his sourceful volume entitled *The Making of Roumania*. *A Short History of Modern Europe* is built around three historical eras: (1) the Era of National Consolidation; (2) the Era of Revolution; and (3) the Dynamic Era.

The Era of National Consolidation is prefaced by sixty-six pages of valuable information that show the true trend of affairs in Europe leading up to the accession of Henry IV, the first of the Bourbon kings in France. In this introductory chapter, all the social and political prejudices that modern Europe inherited are treated in such a way that the reader grasps the deepest feelings that entered into the social, political, and economic development of the times. The six chapters that are used to discuss the Era of National Consolidation are permeated with the very life of the social institutions of the time. They carry the reader through the period without a break in the main thought of the subject. The Era of Revolution is discussed in chapters VIII through XIII, containing in all 178 pages, filled to the brim with the very thought and spirit of this era. Chapters XIV through XX are devoted to a discussion of the Dynamic Era. The old social, political, and economic institutions are reviewed and the new philosophy is compared with the old in the matter of government of the new institutions. Militarism, imperialism, irredentism, the Great War, and the reconstruction of

Europe after the war are used as the basic topics in which the Dynamic Era is reviewed. This era is brought to a conclusion with the finished picture as we saw it in the early part of 1935.

The chief criticism the reviewer offers is the little attention the book gives to arts, letters, science, war, habits, and religion. This, however, does not destroy the general outlines of the historical story of the rise and development of modern Europe. This book is well-written and can be recommended to the student of European History as well as to the reading public. The excellent critical analysis of the subject matter, the long list of reference at the end of each chapter, and the thirty-one page index convinces the reviewer that Professor Riker has done his task well. It is to be hoped that this excellent volume will set an example and a standard for future texts and references on Modern European History.

BRENT C. TARTER

East Texas State Teachers College

Speck, Frank G., *Naskapi*. (Norman: University of Oklahoma Press, 1935, pp. 248)

Dr. Speck's publication is a welcome addition to the literature of the comparatively little-known Montagnais-Naskapi peoples of the Labrador peninsula. Here dwell related bands of Algonkian-speaking Indians, who are described as "exceptionally crude and simple" (p.15). They are a semi-nomadic, hunting and fishing people, "sheltered only in draughty caribou-skin or bark tents, clad in caribou-skin raiment, using mostly bone and wooden implements, and professing neither political institutions nor government" (p. 15). Families form the social unit and they "do not show those communal developments of belief and religious performance that mark the (Algonkian-speaking) tribes of the central region" (p. 20). Among these sparsely settled peoples, individualism has full play, although it is molded by the general culture pattern.

"The material culture and social configurations are determined" (p. 234) by "the physically exacting and rigorous climate." (p. 16). Speck suggests that these people have reached a "state of culture balance" (p. 16) with a consequent lack of development. "But in how far this condition is true of their religious life, I propose to show in this study" (p.16).

The book, then, is a compilation of the religious beliefs of the Montagnais-Naskapi, as can be noted from its table of contents: The Spiritual Forces, Concept of the Soul, Concepts of Mythology and the Universe, Animals in Special Relation to Man, Divination, Magic Practices, and Medicinal Practices and Charms for Hunting. Actually it includes more than is here implied, for the author rightly recognizes the impossibility of divorcing religious from secular interests as the following phrases indicate: "All phases of native life . . . are pervaded by . . . *Manitu* (unseen force, power). . . crafts . . . are as spiritual as they are practical" (p. 19). Again, "hunting is a holy occupation" (p. 76). Montagnais-Naskapi religion "has no priesthood, no theological creed, naturally (?) no ethical code. Its doctrine is individual, yet determined by a traditional tribal pattern widely common, it seems, to the northern area" (p. 22). The conclusion reached is that although the material culture of the Montagnais-Naskapi is crude and can "be ranked among the earth's lowliest," not so their "mental condition" (p. 234), for here is to be found a comparatively complicated religious philosophy.

This reviewer is particularly pleased with the lack of dogmatic statements. Evidence is presented for and against an aboriginal belief in a Supreme Being, and Speck is of the opinion that "the origin of the Great Spirit concept in this region remains unanswered" (p.38). Again, "If the preceding comments satisfy any of the qualifications of the definition of fatalism, then the Montagnais-Naskapi are pronounced fatalists" (p. 81). Similarly, only suggestions are made as to the possible origin or migration of these peoples or the diffusion of their culture (pp. 80, 118, 127f, 169, etc.). So frequently field workers become imbued with certain notions and tend to emphasize data which supports their impressions, but Speck's account seems as free from bias as is possible. He tells us that "the generalized interpretations . . . were carried back into the field time and again, being read and translated to selected informants for their approval and criticism" (p. 19). If Dr. Speck has any "pet theories" they are not readily apparent in this publication. Only once does he go afield, and that is when he reviews scapulimancy (pp. 128-159), presenting the material for both the old and new world.

This monograph is but one of a series of papers that the author is producing on the life of these people and though it is complete within itself, it emphasizes but one aspect of the culture. It would have been helpful if a bibliography had been appended, but possibly all publications pertaining to these Labradoreans are incorporated in the footnotes. Happily an index is included, an omission only too frequent in publications. Lastly, the monograph is most readable, with a kindly, mellow philosophy running through the account, and in the last chapter the author reaches poetic heights.

J. GILBERT McALLISTER

The University of Texas

Johnson, Charles S., Embree, Edwin R., and Alexander, W. W., *The Collapse of Cotton Tenancy*. (Chapel Hill: The University of North Carolina Press, 1935, pp. ix, 81)

For the past two years, a corps of research workers have been collecting data upon the agricultural economy of the South. Those several separate studies, upon the various aspects of that general problem, have not as yet been finally prepared for publication. In the meantime, this small volume, serving the general purpose of a prolegomenon, comes from the press. Without the support of extensive statistical information, its condemnation of the system of cotton tenancy should engender the support of all those who hope for an amelioration of social conditions in this country.

There is little attempt here at embellishment of statement. The authors are pointing out facts that are almost too horrible to describe. Since the turn of the century, the poor white has steadily displaced the negro as cotton producer until now the white tenants outnumber the negro ones at the ratio of almost two to one. Of the living conditions of these workers, the joint authors write: "Submerged beneath the system which he supports, the cotton tenant's standard of living approaches the level of bare animal existence. The traditional status of the slave required only subsistence. The cotton-slave—white or colored—has inherited a rôle in which comfort, education, and self-development have no place" (p.14).

Other vital questions are briefly discussed, including that of "furnishing," credit, and the future of cotton production in the United States. On the latter,

the authors strongly oppose the doctrine that the Southern land owners ought to be permitted to reduce the cost of cotton production so that they could compete with cheap labor in the world cotton market. The answer of the authors is that the South should gradually abandon the one-crop agricultural economy, prepare to diversify farming, and work toward an improvement of the general welfare. The solution is optimistic, more so, I believe, than the hard facts would support. In many ways, the destruction of the brutalizing tenancy system will be more difficult than that of human slavery. For the latter, it was possible to create an implacable and violent opposition to it with a majority of the country's people; with the other it will require a thousand times more labor. However, one cannot but praise this honest attempt to blaze the long, hard trail to reform.

CORTEZ A. M. EWING

University of Oklahoma

Martin, Roscoe C., *A Budget Manual for Texas Cities*. (Austin: University of Texas: Bureau of Research in the Social Sciences, Study No. 10, Municipal Studies, No. 1, Dec. 1, 1934 pp. 131).

In 1931, the legislature of the State of Texas recognized the importance of public budgeting and enacted the "Texas Uniform Budget Law". Henceforth Texas municipalities were required to prepare annual budgets according to the procedure that the law prescribed. But the enactment of such legislation could not in and of itself reform established practices and procedures. The inauguration of sound principles and practices in public administration involves considerably more than simply a legislative fiat. A carefully planned educational program patiently pursued is essential for genuine results.

Professor Martin's *A Budget Manual for Texas Cities* should help to bridge the gap that apparently still exists between the intent of the budget law and the actual results of the law in operation. It is a well conceived handbook or primer on the essentials of sound budgeting practices. While the manual lays down rules of guidance, it reflects throughout close familiarity with the budgeting experiences of Texas cities. The preliminary field study of the problem by the author and his aides undoubtedly accounts for both the vitality and the practicality of the presentation. The author's treatment of the subject is clear and concise. The bulletin should prove especially helpful to the smaller cities, since they can rarely afford to employ expert guidance. Professor Martin in the preparation of the manual has kept in mind the needs of the smaller units, and has, therefore, produced a treatise which should enable the officials of these units to grasp the real significance of the budget problem.

The subject matter is organized under five chapters. These deal in succession with the budget problem as it presents itself to-day in Texas cities, the minimum requirements of a budget system, the finer points of budgeting, subsidiary aids to budgeting, and the rôle of budget. General students of the subject will find the first chapter of special interest, because of the facts presented with reference to the budget law in operation. In the four chapters devoted to the fundamental principles of budgeting, the author does not attempt to elaborate any new theories on the subject. His aim is rather to present concise statements of accepted principles supplemented in each instance by brief explanations. About one-third of the manual is devoted to appendices which consist for the most part of exhibits and illustrative materials intended as aids to the budget

officers of small cities. This feature of the bulletin attests its eminently practical character.

Professor Martin's manual is a valuable educational tool. It is an elementary treatise that the reviewer would recommend not only for Texas officials but for officials everywhere who may be concerned with the budget problem. This type of municipal study will probably contribute more to the realization of sound public administration than many of the ponderous tomes of commissions of inquiry that are today accumulating dust on library shelves.

MARTIN L. FAUST

University of Missouri

Buell, Raymond Leslie (Ed.), *Governments in Europe*. (New York: Thomas Nelson and Sons, 1935, pp. viii, 1041)

This volume, as its title indicates, contains a discussion of a number of present-day political institutions. It is divided into two major divisions: "Democratic Governments in Europe" and "New Governments in Europe", the latter section having a sub-title, "The Trend Toward Dictatorship". This division of the book was published in 1934 as a separate volume under the auspices of the Foreign Policy Association. The volume as it appears in its present form is a collaboration on the part of four teachers and two members of the staff of the the Foreign Policy Association. The preface and the section which treats of the Swiss Democracy have been prepared by the editor.

The first part of this book analyses responsible government as it now exists in England, France, and Switzerland. In the words of the editor, the authors have pictured "the working of three different types of democracy." They have attempted to show how the parliamentary system is attempting to meet the demands and needs of the twentieth century. Professor Eugene P. Chase, Lafayette College, contributed that portion of the book dealing with English Government and Politics; while Professor Robert Valeur of Columbia University wrote the section treating the French system.

The second half of the volume is given over to a discussion of "The Trend Toward Dictatorship". Here Dr. Vera Micheles Dean has prepared a chapter dealing with "The Attack on Democracy" which seems to strike a keynote for the studies which follow. The sections on Fascist Italy and Communist Russia were also prepared by Dr. Dean.

Dr. Mildred S. Wertheimer gives the reader a section on the Nazi Revolution. "Stability in the Baltic States" is recounted by Professor Malbone W. Graham, and Mr. Baily W. Diffie presents the final section which treats "Spain Under the Republic".

The reviewer is not sure if one would be correct in describing this volume as being more than a textbook. However, it might justly be spoken of as a textbook of an unconventional nature. Footnotes are copious and many significant recent happenings have been woven into the narrative. Although the authors differ in the method of handling their subject-matter and in organization, the reader is likely to overlook this lack of uniformity when he is presented with an up-to-date, interestingly written study composed by individuals who have made a rather detailed study of their respective assignments.

STUART A. MacCORKLE

The University of Texas

Fournier, Leslie T., *Railway Nationalization in Canada*. (Toronto: The Macmillan Company of Canada, Limited, 1935, pp. ix, 358)

Canada has two great railway systems which parallel each other from coast to coast and which meet in active competition in every important city in Canada. One system, the Canadian National Railways, is government owned and operated; the other, the Canadian Pacific Railway System, is under private ownership. Professor Fournier tells the story of these two railway systems.

In a general way the subject matter of the book may be divided into three parts. The first tells how the Dominion Government acquired ownership of the Canadian National Railways and attempts to interpret the forces which resulted in that ownership. The author shows that the acquisition of the railway properties by the government avoided bankruptcy and the consequent loss to investors, but shifted the burden to the people of Canada.

The second part compares the government-owned railway system with its private competitor in regard to operating and financial results. Although there is little to choose between the two from the standpoint of the character of the service rendered, there is a marked difference in the cost of operations of the two railways, resulting in a heavy financial drain upon the Dominion Treasury.

The third part discusses the outstanding problems that have developed from the government's experimentation in railway nationalization, gives an analysis of the proposed remedies, and sets forth a railway policy for the future. These problems are of two different types. "There are the problems accompanying the administration of a government-owned system of railways in a democratic country, and the problems arising from the relatively uncontrolled competition of two large commercial railway systems, representing widely different principles of ownership." The proposed remedies center around "co-operation" and "unified management." The author refrains from drawing any general conclusions in regard to the relative merits of the two systems of ownership, but reaches the conclusion that the logical solution to the problems raised by the Canadian experiment is unified management of the two railways under private administration, but with adequate regulation.

Professor Fournier has succeeded in presenting an impartial, thought-provoking study of the railway situation in Canada. In view of the increasing importance of the transportation problem in the United States, his book is timely and will be welcomed by students of economics and of government.

ERNEST WILLIAM ROWLAND

The University of Texas

The Economic Literature of Latin America: a Tentative Bibliography, Vol. 1. Compiled by the Staff of the Bureau for Economic Research in Latin America, Harvard University. (Cambridge: Harvard University Press, 1935, pp. xvii, 315)

Research in the economic affairs of the Latin American countries has long been hampered by the lack of bibliographical materials. Consequently students of these subjects will welcome the publication of a carefully classified bibliography.

The present volume surveys the economic literature of the general area of Latin America and of each of the ten South American republics. A second volume,

now in preparation, will deal with Mexico, Central America, Panama, and the Caribbean area, and will also supplement this first volume. The first volume, as is stated in the introduction, is "tentative" and "is not to be considered a complete inventory; it is simply a guide for economists, to whom in general this part of the world has been unknown territory." Complete lists of publications of the governments of the Latin American nations, the United States Department of Commerce, the Pan-American Union, and other organizations are not included since they are available elsewhere.

The more than 6000 titles are grouped by geographical divisions, Latin America and the ten republics. These are sub-classified by subjects, such as agriculture, industry, labor, etc. Each subdivision is accompanied by brief remarks regarding the important titles. These notes are of special value to those who wish to secure information on a particular subject without going through the entire literature. One convenient feature is an alphabetical index of all the authors. The statistical sources of South America are the subject of a detailed appendix.

As would be expected in a work of such magnitude and which breaks new ground, there are a few notable omissions. The compilers, recognizing this inherent danger, have stressed the tentative character of the work, have requested corrections and criticisms, and have announced that supplements will be issued. On the whole, the Harvard University Bureau is to be congratulated on having provided a useful tool for students of Latin American economic affairs.

EMILIO G. COLLADO

Washington, D. C.

BOOK NOTES

Employers' Liability and Workmen's Compensation in Arizona (University of Arizona Bulletin, Vol. V, No. 8, Social Science Bulletin No. 7, University of Arizona, Tucson, Arizona, 1934, pp. 116) by Victor DeWitt Brannon was submitted as a thesis in partial fulfillment of the requirements for the Master of Arts degree at the University of Arizona in 1932 and was revised in the summer of 1934. The author presents an historical and analytical study of employers' liability and workmen's compensation laws in Arizona in which he discusses: the problem of organized labor under the territorial government; the acts passed by the liberal legislature of 1912 following the mandate of the labor-dominated constitutional convention of 1910; the clash, both legal and political, between the mine and railroad corporations and organized labor in regard to modification of these acts which culminated in the jointly sponsored workmen's compensation amendment and law of 1925; and attempts to modify or repeal the act of 1925. He also discusses various legal questions which have arisen concerning such acts in Arizona. The administrative organization and functions of the Industrial Commission are considered briefly, and examples of the nature of the work performed by it are included. The author makes no specific recommendations in regard to the modification of the laws except to include certain proposals made by various labor groups and others; nor does he introduce any comparative material. The study is based primarily on official reports, newspaper reports, and personal interviews which are listed in the bibliography.

D. R. P.

The third of a series of monographs on population redistribution is titled *Is Industry Decentralizing?* (Philadelphia: University of Pennsylvania Press, 1935, pp. 105). The author, Daniel B. Creamer, presents a statistical and quantitative analysis of the shifts in location of "wage jobs" between the years 1899 and 1933. The purpose of the study is "to find out how employment opportunities have moved in the recent past." It is concerned with movements between different types of communities rather than with inter-regional shiftings. A separate chapter is devoted to an analysis of twenty-four industries from 1929 to 1933. The conclusion is that, while concentration of employment has diminished in the principal industrial cities, there has been a "diffusion" of jobs into their peripheral or suburban areas, and into counties of moderate industrial concentration. Thus, jobs have simply been spread out within the major manufacturing regions, and there has been no "dispersion" into new localities or unpopulous counties. Thirty tables are included to supplement the text. In view of the complexity of the statistical data, it would be helpful if the concluding chapter contained a more complete summary.

L. E. A.

Abyssinia and Italy (Information Department Papers, No. 16, 3rd edition, Oxford University Press, New York, 1935, pp. 55), issued under the auspices of the Royal Institute of International Affairs, London, provides "a concise and objective statement of the facts essential to an understanding" of the issues involved. Part I presents an historical sketch of the relations of Abyssinia to the Great Powers and the international status of Abyssinia from 1913 to 1934. Part II contains a description of internal conditions and a brief summary of the interests of Great Britain, France, Japan, and Italy in Abyssinia. Part III gives an account of the events that occurred between the Walwal incident in December, 1934 and September 19, 1935, and also discusses the diplomatic efforts made to settle the difficulty during this period. The book includes two appendices composed of the pertinent articles of the League Covenant and certain articles from the Convention respecting the Free Navigation of the Suez Maritime Canal. A map of East Africa is also included.

D. R. P.

The mass of far-reaching legislation ushered in by the New Deal has called forth a large crop of explanatory handbooks and manuals. Among these, however, the little booklet *Labor and the New Deal*, by Stein, Raushenbush, and Macdonald (New York: F. S. Crofts & Co., 1934, pp. 112) is rather like a sailboat left high and dry by a receding tide. Some 20% of it, or so, dealing with the NRA, is now quite obsolete. Somewhat more than half of the remainder discusses the legal status of labor legislation in terms of leading cases extending over the last twenty years; and while such a compilation has its value it is not very enlightening as to the status of labor under the New Deal. There is a supplement on Labor and the New Deal in 1935 which relates briefly the debacle of the NRA; but even this section continues to describe the situation under the Blue Eagle, whereas the very important legislation passed in the late summer of 1935 is not discussed—probably because it was too late for publication. But however excusable the cause, the absence of such material is a serious fault in a summary which purports to describe the status of labor at the present moment.

J. H. L.

The Economic Independence of Poland (Cincinnati: The Ruter Press, 1934, pp. 134), by Paul F. Douglass, presents, as the subtitle states, a study in trade adjustments to political objectives. Trade relationships in pre-1919 Europe had been fairly delicately and satisfactorily established regardless of nationalistic feelings. The states created by the war had the opportunity to continue those relationships or to attempt to compel economic forces to serve political ends. These states chose the latter alternative, and the unhappy results are well known. In Poland, as the author so effectively shows, a somewhat similar situation resulted when, for political reasons, a deliberate effort was made to direct Polish trade via the sea coast and away from neighboring states. It is one of many illustrations of the sacrifices that peoples willingly or unwillingly make to serve nationalistic ends at the expense of economic interests and in spite of economic trends. The author is to be commended for the concise, skillful handling of his material.

C. T.

The trend in Mexican immigration since the inception of the depression in 1929 is excellently treated in Paul S. Taylor's *Mexican Labor in the United States*. Migration Statistics. IV (University of California Publications in Economics, Volume 12, No. 3, pp. 27.) In this study the author has checked Mexican statistics against American and has uncovered some rather amazing discrepancies. It seems that each country keeps much more accurate records on immigration than on emigration. Mexican repatriation, which is evidently much heavier than even the surprising American figures indicated, passed its peak in 1931 and has been dropping very sharply ever since. It is rather surprising, too, to discover that Oklahoma has only $\frac{1}{2}\%$ of all the Mexicans in the country, and is outranked by such mid-western states as Illinois, Indiana, and Michigan. The study also devotes a section to a general consideration of the distribution of aliens and racial minorities in the United States. There are a number of valuable statistical charts and maps which illustrate in graphic fashion the data given in the text.

J. H. L.